COLUMBIA JOURNALISM REVIEW

CJR

SEPTEMBER/OCTOBER 2000
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Knight Ridder congratulates the Saint Paul Pioneer Press on winning the Pulitzer Prize for Beat Reporting.

After three months of investigation, the Pioneer Press broke a story alleging academic fraud in the University of Minnesota basketball program.

It hit the front page of the paper one day before the Gophers basketball team was to play its first-round NCAA tournament game.

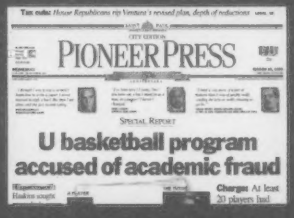
The university promised a thorough, independent investigation. It also suspended four players who were named in the allegations. They were not eligible to play in the tournament game, which the Gophers lost 75–63.

The reader response was immediate, passionate, overwhelming—and divided. Hundreds called, e-mailed and wrote the paper to say they were outraged that it would publish such a story on the eve of the Big Game. Even Governor Jesse Ventura weighed in, calling the paper's decision "despicable."

A Controversial Call
And A Pulitzer Prize Winning Effort.

Six months later, the university released its long-awaited report. At least 18 players were found to have cheated. The school will likely forfeit every victory since 1993. Total cost of the scandal: $5 million. Four top officials of the athletic department were ousted.

For the reporters and editors who had been accused of everything from racism to opportunism since the Pioneer Press uncovered the fraud, it was a day of vindication.


PIONEER PRESS

SPECIAL REPORT

U basketball program accused of academic fraud

Knight Ridder congratulates the Pioneer Press and its people on the award and on their commitment to journalistic ethics. We concur wholeheartedly with the readers who called the timely reporting of this story "newspapering at its finest."

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Left to right: Martin Mrnka, Czech Television; Nate Thayer, *Far Eastern Economic Review*; Sang-hun Choe, *Associated Press*; Dieter Wissler, Novartis International AG; Randy Herschaft, Martha Mendoza, Charles J. Hanley, *Associated Press*; Rika Tjahyani, *Femina Magazine* (based out of Indonesia); Ambassador Paul Wolfowitz, Dean of SAIS

First Place
The *Associated Press* investigative news team of Sang-Hun Choe, Charles J. Hanley, Martha Mendoza, and Randy Herschaft for efforts to uncover the truth about Korean civilians killed in the Korean War

Second Place
Nate Thayer and Nic Dunlop of *Far Eastern Economic Review* for the "Inside Story of the Khmer Rouge Killing Machine"

Third Place
Maria A. Ressa, Jakarta Bureau Chief for *CNN International* for her report on "East Timor-The Struggle for Independence"

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"To assess the performance of journalism . . . to help stimulate continuing improvement in the profession, and to speak out for what is right, fair, and decent" —From the founding editorial, 1961

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CAMPAIGN 2000

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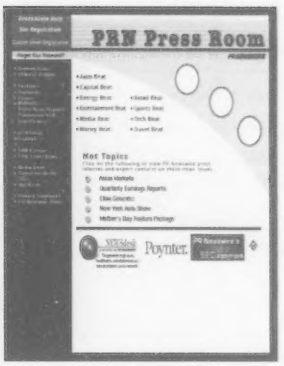
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LETTERS

WHAT 'KEY WITNESS'?

We were pleased to see CJR urge investigative journalists not to be deterred by the backlash to our AP reporting on the killings of Korean refugees by the U.S. military in 1950 (CJR July/August).

But we would like to correct — and explain — a major distortion that seems to be taking root.

The report of our four-member team on No Gun Ri was based on documents and more than forty Korean and American eyewitness sources, including fifteen U.S. Army veterans whom we traced. (Still other sources detailed other killings.) One veteran, Edward L. Daily, was the seventh of nine ex-GIs quoted. He individually provided nothing essential. On May 25, eight months after we published, we reported that Daily now acknowledged he could not have been at the scene. He apparently was passing along second-hand impressions gleaned from friends who were there.

After we reported he was not an eyewitness, a *New York Times* headline labeled Daily, baselessly, a "central pillar" of our report. Now we see CJR is under the impression he was a "key witness" whose changed status was a "staggering blow."

No single source was "key" to our story. Its strength lay in its great multitude of documentary and eyewitness sources. It stands as powerfully today as ever.

CHARLES HANLEY
MARTHA MENDOZA
The Associated Press
New York, New York



ENOUGH, ALREADY

Okay, Don Hewitt and CBS News irrevocably injured their credibility by not airing the Wigand segment for fear of litigation. And Lowell Bergman may very well be an arrogant self-aggrandizer. We've known all of these things for years. Yet two straight issues of CJR (not to mention the other trade rags) go on at length about the sniping between these two, and give Hewitt seemingly unlimited column-inches in which to repeatedly defend himself. Give the guy a monthly column already, so I know which section to avoid.

Sure, there are some big lessons to be learned from the Wigand incident, and anyone who wanted to learn them has had ample opportunity to do so. Can we turn this into a required unit in our J-schools and move on, please?

BROOKE SHELBY BIGGS
San Francisco, California

IN DEFENSE OF PRUDENCE

I believe you make too much of the issue of newspaper publishers not wishing to attack their advertisers ("Blasting the Boss in Boston," CJR, July/August). Not everyone is obligated to fight every worthy cause, especially if it tends to be suicidal. Why not spend the effort more productively? In a society with a largely free press, it is not every paper's moral/professional responsibility to address every problem — there are many others that can take up a task if one of them finds it self-defeating.

TIBOR R. MACHAN
Professor of Entrepreneurship and Business Ethics
Chapman University
Orange, California

MISSED FACTS

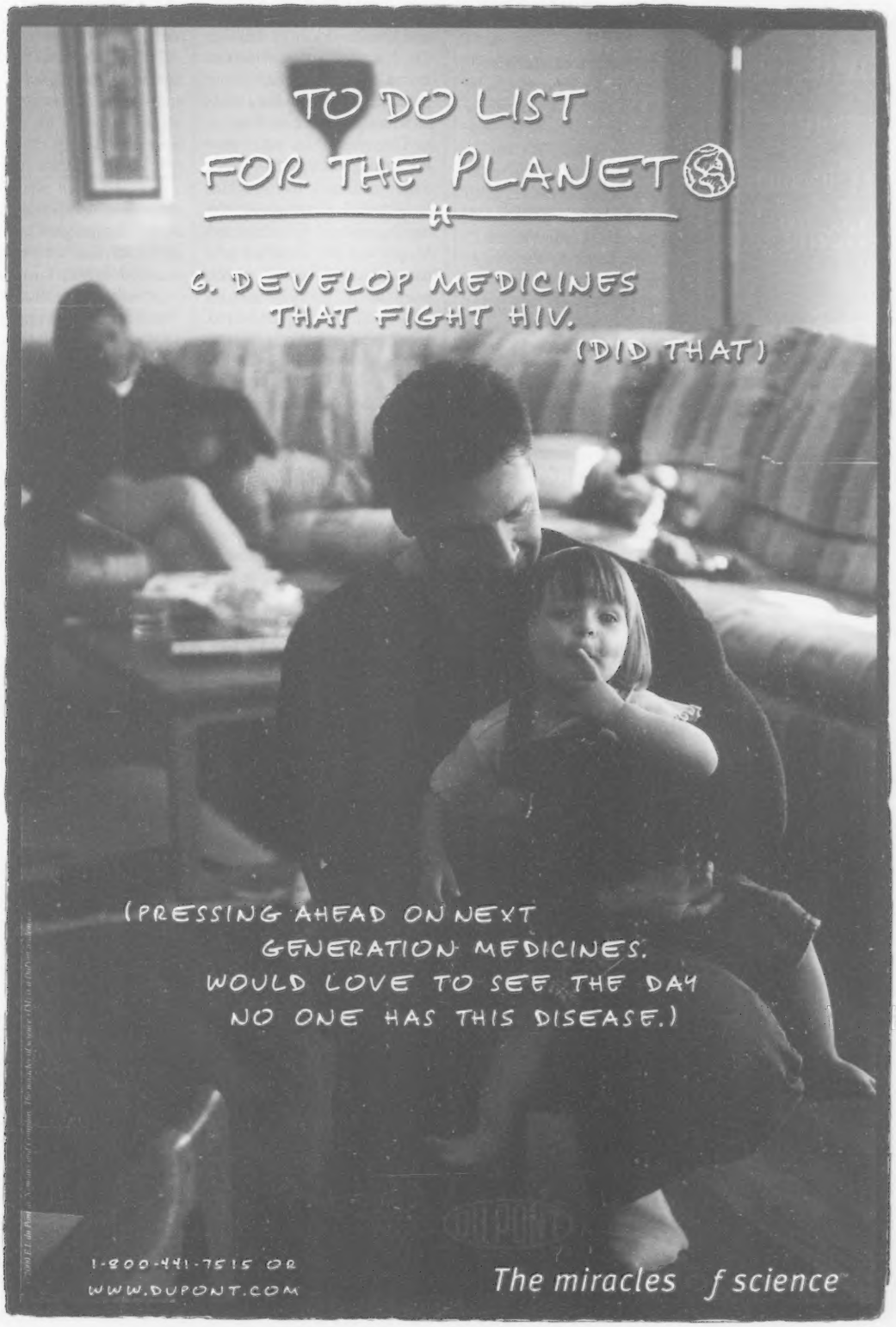
Your story about the planned JOA in Denver ("Peace In Denver," CJR, July/August) contained errors of fact and of omission.

The writer, Alan Prendergast, misrepresented what occurred under various editors of *The Denver Post*. For instance, he wrote that Dennis Britton succeeded Gil Spencer as the *Post*'s top editor. Spencer retired in 1993. Britton was not hired until 1996. The top editor after Spencer was Neil Westergaard.

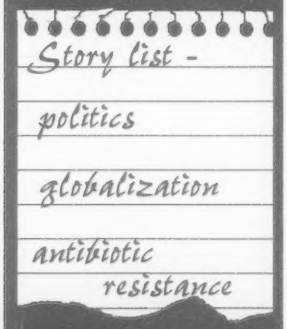
Prendergast let Westergaard pontificate about quality and competition in newspapers. But he conveniently omitted the fact that Westergaard was removed as the *Post*'s top editor in 1996. That is when Britton came aboard.

Prendergast also did what has become typical in journalism trade publications that cover the Denver story: he took potshots at Britton, saying he emphasized "positive news" and that he was reviled by the staff. He failed to note that Britton was in charge when the *Post* did the Columbine work that brought it a Pulitzer.

MILAN SIMONICH
Reporter, *Pittsburgh Post-Gazette*
Pittsburgh, Pennsylvania


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CLARIFICATIONS

Don Hewitt, executive producer of *60 Minutes*, says he never "conferred repeatedly and secretly" with the tobacco giant Brown & Williamson's public relations representative John Scanlon, as Lowell Bergman wrote in CJR (July/August).

In a letter to the magazine dated July 20, Scanlon writes: "Don Hewitt never initiated any conversation nor did he ever request a meeting with me. On one occasion I reached out to Hewitt and offered two sworn depositions [related to the *60 Minutes* tobacco investigation]. On a second occasion, I met Hewitt in a social setting."

CJR regrets any misunderstanding.

In the July/August issue, a Dart dealing with newspaper reviews of *The Hunting of the President* said that *The New York Times*'s Neil A. Lewis had "judged the book's 'theory' as not 'plausible.'" In fact, what Lewis actually wrote was that "the authors failed to make their theory plausible."

UNFINISHED BUSINESS

It's nearly over, you reported in your March/April issue. Sorry, it isn't. Gannett and Knight Ridder have waged a public relations campaign to convince the public the Detroit newspaper lockout is over. The media could easily expose the truth but haven't.

There was some bargaining, but no deals were reached before the U.S. Court of Appeals for the District of Columbia ruled for Gannett and Knight Ridder on July 7 in the National Labor Relations Board's main unfair labor practice case against the *Detroit News* and *Detroit Free Press*.

The unions have stated their back-pay claims at more than $160 million, from which locked-out workers' interim earnings would be subtracted. Meanwhile, our members who have returned to the papers continue to be discriminated against, suspended, and fired. We have probably 600 still locked out, including myself.

ALAN FORSYTH
Detroit News copy editor
Detroit, Michigan

ARMY-ISSUE NEWS

After writing articles about the military for the last several years, I have to take issue with the quote from Army Public Affairs Officer Margaret McBride in "Kosovo on a Budget" (CJR, July/August). In the story, she is quoted as saying, "We don't prep the soldiers and we don't prep the journalists. They can talk to anybody they want, about anything they want." The picture accompanying the article tells a much more accurate story about how the military (and many companies) handle the press today. Notice that an Army PAO is sitting there while the woman is interviewed.

The PAO almost always insists on being present (via conference call if necessary) to make sure he/she knows what's being released to the press. You can try to go directly to the source, but the next time you try to get an interview with someone at the same command, you may have some problems. Also, personnel are often instructed to contact the PAO if they are contacted directly by the press.

MARYANNE LAWLOR
Senior editor, *Signal* magazine
Fairfax, Virginia

LOST CHANCE

Regarding Christopher Hanson's "Campaign Watch" piece in the July/August issue: While it certainly was taken tongue in cheek, I am disappointed that with such an opportunity to speak to an audience that needs a lesson on how to improve campaign coverage, Hanson wasted the opportunity with sophomoric banter.

CHRISTOPHER S. KELLEY
Department of Political Science, Miami University
Oxford, Ohio

NBC, CNN, TCI, & COX

Larry Grossman's memory of events (CJR, July/August) is faulty, and his complaint about "media barons" is hypocritical.

In 1985, I presented Grossman with a plan for NBC for an independent 24-hour news channel to compete with CNN. Grossman adopted it immediately. He said that he would clear it with his affiliates, and I began to sell it to the cable industry.

John Malone committed for TCI. Bill Schwartz at Cox agreed to become a partner. Then, Ted Turner called Grossman and Grant Tinker at NBC and suggested that rather than launch a competitive service, they become his partners. Grossman leaped at the idea and began discussions.

Meanwhile, Turner and his affiliate relations people went out and signed the major

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Multiple Systems Operators to new CNN contracts. With his market secured, Turner walked away from Grossman and NBC.

What the MSOs did not get was an interest in CNN — and that guts the heart of Grossman's piece. This was 1985, and Ted didn't take the MSOs into his business until 1987 when he needed their money to pay off debt. Grossman and NBC had behaved just like "the mammoth battling telecommunication empires seeking to crush competition and dominate the information age" that he now complains of.

REESE SCHONFELD
New York, New York

■ *Larry Grossman replies: Reese Schonfeld gives me too much credit with his claim that I sought "to crush competition and dominate the information age." In the mid-1980s, none of us knew about an information age. His memory is clouded by his disappointment at NBC's failure to compete against Ted Turner's CNN. Reese, who once headed CNN, was eager to see a rival take on his ex-boss.*

He's wrong about Cox and TCI signing on to NBC's proposed cable news channel. They never did, as The New York Times *reported at the time. The MSOs closed the door on cable news competition when Turner cut his license fee demands and decided to sell them a stake in CNN. The deals were announced in January 1987, but discussions between Ted and TCI's John Malone began long before.*

When Turner told us he might want to sell a piece of CNN to raise cash, NBC chairman Grant Tinker asked the RCA board (RCA then owned NBC) for authority to negotiate a majority interest in it for NBC News. The board agreed reluctantly, set a price that turned out to be just a few million dollars less than what Ted asked for, and refused to go higher, one of its most short-sighted business decisions.

Recounting the story of our effort in my book, The Electronic Republic, *I wrote, "It may have been bad public policy, but it was good corporate economics." There were no rules against NBC's entering the field then or now. There should be rules that limit the power of multimedia companies to own both the content and the means of distribution, which is what my* CJR *column was about.*

LAUREL CHALLENGED

It was disconcerting to open your July/August issue and discover that CJR awarded a Laurel to *The Kansas City Star* for its series on priests and AIDS, without reference to the public controversy over the research methods the paper employed.

Our organization as well as several distinguished academic analysts evaluated the research claims made in the series and found them misleading. The survey of priests was so poorly done that no meaningful conclusions about priests nationwide could be derived.

The series showed strengths in addressing a tough topic. But it tripped in its attempt at research. This is not the stuff of which Laurels are made.

DAVID MURRAY, PH.D
Director of Research
Statistical Assessment Service
Washington, D.C.

The editors reply: The Laurel to the Star *was based on a lot more "stuff" than the survey — among other things, an extensive examination of death certificates and church documents as well as interviews with hundreds of priests, church officials, and AIDS experts. Questions raised about the survey, however valid, did not, in our view, diminish the significance of the* Star*'s extraordinary work.*

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Supported by a grant from The Pew Charitable Trusts, the National Arts Journalism Program offers fellowships to mid-career and senior journalists specializing in arts and culture.

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Holly Bass, Contributor, *Washington City Paper*

Thomas Conner, Pop music critic, *Tulsa World* (OK)

Eric Fredericksen, Senior writer, *The Stranger* (Seattle)

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Cynthia Joyce, Contributor, Salon.com

Adam Langer, Freelance writer and editor, *Book Magazine* and *Chicago Reader*

Naomi Person, Producer, "Fresh Air with Terry Gross," WHYY-FM (Philadelphia)

Ray Rinaldi, Arts and entertainment editor, *St. Louis Post-Dispatch* (MO)

COUNTERPOINT

DOT-COM DOUBTS? I DOUBT IT

Counterpoint provides an opportunity for those who disagree with what is published in CJR to express their point of view. Hoag Levins is vice president and executive editor of APBnews.com, which struggles on while searching for new funding. He responds to CJR's July/August cover story, "Turning Point: Online Media Face Reality."

BY HOAG LEVINS

On June 5 — Black Monday, as we called it — more than eleven dozen of us gathered in the sprawling newsroom at APBnews.com to hear our c.e.o. tell us that the company was broke. The news and reaction flashed around the world:

"Dot-Com Pendulum Swings Toward Gloom," trumpeted *The Toronto Star.*

"Internet mania has finally, decisively, burned itself out. The future now belongs to companies that can deliver — of all things — real profits," gloated *Fortune.*

"The summer of 2000 feels like a turning point for dot-com journalism," announced CJR, "... Exhibit A is APBnews.com."

The inference seemed to be that the collapse of APB and cutbacks at a slew of other news Web sites somehow proved that the very concept of independent journalism on the Internet was in trouble.

What a ridiculous notion.

What all the tumult actually demonstrated was that an infant industry supported by wildly unstable financial sources was suffering its latest round of growing pains. And no matter how the Internet publishing business mutates, it will always revolve around journalism and journalists — although for practical, rather than moral reasons.

Throughout the history of modern mass communications in democracies, there has never been an emerging medium that was not ultimately dominated by journalistic concerns for accuracy, fairness, and ethical publishing conduct. Mainstream audiences and advertisers have always gravitated toward journalistic credibility and they will continue to do so on the Internet.

However, the question of whether credible Web publishers will make money any time soon is something else. Wall Street's new dot-com mantra, "profit now or die," seems unrealistic, given the current state of the Internet's evolution. The base of potential advertisers and e-commerce customers is still far too thin to support the kind of advertising enjoyed by newspapers, radio, and television.

Incredibly, some pundits have even suggested that the explosive growth of online advertising spending is proof of the Internet's failure as a publishing venue. In the July/August CJR, for instance, James Ledbetter points out that despite $4.6 billion spent on Net advertising in 1999, the online business model still isn't profitable. He suggests there is little potential for successful Web publishing enterprises because the huge number of new pages steadily created on the Web will "eventually dilute" any single site's ability to attract sufficient readers or ads.

In fact, the vast and serendipitous nature of the Web's structure has given rise to its most successful new publishing business models: the search engines and topic indexing sites that get tens of millions of visitors daily. These giant portal sites clearly show how loyal online audiences and advertisers can be aggregated. Sites like Yahoo!, MSN.com, Excite, Lycos, and AltaVista enjoy the Web's highest levels of advertising revenue.

These portals also have voracious appetites for original news and feature material that they can't produce themselves. Knowledgeable editors and publishers at stand-alone sites, like APB, know they must produce this content and find ways to push it, via live links, out to these portal sites. APB syndicated its daily news feeds to more than twenty affiliate portals. Every day, people clicking on our headlines on those portals came directly back to us. Even five weeks after Black Monday, as APB operated with only a skeleton crew and no advertising or promotion of any kind, we were still logging more than 500,000 page views a day (according to APB's internal count) — in part because we continued to feed our story links out to portal affiliates.

The real problem of the last few months has been one of vision. It used to be that savvy investors knew they were buying into something that was going to happen but hadn't quite yet. But since April, Wall Street's bean counters have been squinting into cyberspace and seeing only as far as the next dreary quarter. Peter Lynch, the fabled Fidelity Magellan investment guru, preached that close observation of your daily world is one of the best ways to visualize the future. This is how Lynch discovered the investment potential of little-known enterprises, such as Dunkin' Donuts, before they went on to become American icons. It didn't take a team of analysts or weeks of crunching numbers to understand what was going on with Dunkin' Donuts, Lynch noted. You only had to eat the donuts and watch the crowds.

Understanding the prospects of the Internet is something like that. Look around you. See the collective glow of browser screens throughout the offices and homes you visit. Walk through an elementary school and watch the eight-year-olds doing the day's links. Stand back and contemplate the meaning of all this. We are not just wiring classrooms or dormitories or lecture halls. We are wiring the sensitivities, lifetime habits, imaginations, and expectations of entire generations of new readers and consumers.

From behind the donut that I'm eating, I can see a near future in which a high-speed, broadband Internet will become the core around which all communications and advertising interests revolve. That Internet will ultimately be the richest venue advertising has ever known because, in effect, it will be all media venues seamlessly interconnected to one another.

Sixteen floors high and staring out at the Manhattan skyline from the wreckage of a once-flourishing online newsroom, I can also see this: the same Internet will offer journalists the greatest opportunities and most perplexing challenges they have ever faced. ■

THE SEATTLE TIMES NAMED ONE OF THE NATION'S TOP NEWSPAPERS FOR DIVERSITY... AGAIN.



NAMED AMONG TOP TWO FOR OVERALL DIVERSITY

The annual Morris Report* ranked The Seattle Times among the top two newspapers for the "Most Diversity-Balanced Dailies." Of those dailies, The Seattle Times was singled out for having the most diversity among top management ranks.

NAMED AMONG TOP TEN FOR NEWSROOM DIVERSITY

Of the top ten newspapers listed, The Seattle Times also was ranked by the Morris Report as among the highest in the nation for diversity in the newsroom. The Morris Report has rated The Seattle Times among the nation's top ten in prior years as well.

COMMITTED TO DEVELOPMENT AT EVERY STAGE

The Seattle Times not only recruits, but develops journalists of color at every stage: the Urban Newspaper Workshop assists high school students of color; minority scholarships support college students at both Washington State University and the University of Washington; and the annual Blethen Family Internship offers beginning journalists a full year of paid training.

Committed to a diverse work force, The Seattle Times holds a mirror to the diverse communities we serve.

The Seattle Times

A daily with diversity.

*Carl Morris Associates is a Reston, Virginia-based consulting firm and publisher of a newsletter on people of color and the media.

CURRENTS

IN REVIEW

THE PLAGIARISM PUZZLE

A week after columnist Jeff Jacoby was suspended by *The Boston Globe* for four months for "serious journalistic misconduct" (he recycled, without attribution in his column, the work of others), the *Globe*'s New York sibling acknowledged its own piracy problem. *The New York Times* admitted in a July 14 Editors' Note that five passages in its June 27 obituary of Vera Atkins, a major British intelligence figure, "closely reflected the phrasing of an obituary in *The Times of London*." Those passages, said the New York paper, "should . . . have been attributed" to the British publication "or [they] should have been rephrased." The *Times* thus added to confusion over plagiarism's dos and don'ts by appearing to imply that filching research is acceptable if it is camouflaged.

Actually, as Dan Kennedy reported in *The Boston Phoenix*, the *Times* obit, by Douglas Martin, also used passages remarkably similar to material in the *London Telegraph*. Martin's explanation, according to Kennedy: "Reporters based overseas routinely lift material from local papers and send it to the home office."

Jacoby also invoked what has been called the public-domain defense. How and when information enters the "public domain" is murky; the situation is made trickier for newspaper journalists by scant guidance from news organizations.

The American Society of Newspaper Editors last year collected ethics codes from some thirty newspapers. More than half of the codes ignored plagiarism. Many of the rest treated it simplistically. Ironically, the *Globe*'s policy on attribution is a model.

— *Gil Cranberg*

The Globe's policy is available on CJR's Web site: cjr.org.

A ROMENESKO REPORT

Jim Romenesko's Media Gossip.com became a must-read for press junkies after the former *Milwaukee Journal* police reporter started it as a hobby. For many it was the fastest way to catch up on media news developments. It wasn't really gossip but a neatly packaged set of links that sent you to the full story. Romenesko acted as the gatekeeper with a brisk narrative and wide-ranging topics.

He was so effective he was hired by the Poynter Institute, and his one-time hobby is now a centerpiece of Poynter's Web site, renamed Media News. It is still a must-read, but while the title has changed from gossip to news, for some reason the Romenesko text seems to be more in the area of gossip now, with lots of personality-based items.

And Media News has on at least one occasion abandoned its gatekeeper role for its own publishing effort, a rather one-sided 11,000-word defense of Mike Barnicle. There may be valid reasons for these trends, but we hope they don't undermine Romenesko's original purpose.

— *H. Valda*

DEADLINE'S DEAD RINGER



NBC PHOTO/JESSICA BURSTEIN



AP WIDE WORLD/MICHAEL S. GREEN

Above, "Benton" with "students;" below, Protess with real ones.

On May 20, David Protess was kicked back at his home in suburban Chicago watching the Los Angeles Lakers wax the Portland Trail Blazers in the NBA playoffs. A teaser for *Deadline*, NBC's new fall show, rolled across the screen. It's the story of a New York tabloid columnist who uses his students to investigate stories and right wrongs. Protess, a journalism professor who does exactly that, was incredulous. Then the phone started ringing. "Since then there hasn't been a day that goes by that someone doesn't say, 'Hey, you sold your story,' " says Protess. Rich Foster, the program director at the Freedom Forum's Newseum, says the trailer so reminded him of Protess that he revived his previously unsuccessful attempt to get the professor on a panel about investigative reporting.

But Protess — who teaches investigative reporting at Northwestern University and who has, along with his students, helped overturn seven murder convictions since 1992, including those of three death row inmates — has nothing to do with *Deadline*. And he wants an ad spelling this out to run in publications like *The New York Times*, because he says the show portrays him in a false and negative light. "They can talk composite all they want," he says, "but the fact is I am the only journalism professor in the country who involves his students in these types of investigations."

Deadline, which debuts October 2, centers on Wallace Benton, played by Oliver Platt (*Bulworth*, *A Time to Kill*). An old-school tabloid columnist who teaches part-time at a journalism school, Benton is not shy about breaking rules in

the service of truth. His paper, *The New York Ledger*, is modeled after the *New York Post*. The show's newsroom scenes are shot in the old *Post* building on South Street in Manhattan. Plots are built around actual news stories, a formula Dick Wolf, *Deadline*'s creator, and Robert Palm, its lead writer, use with great success in *Law & Order*. In the pilot, for example, Benton and his students reinvestigate a multiple murder at a fast-food restaurant, much like the one in May at a Wendy's in Queens. By episode's end, they have single-handedly freed two men from death row.

Benton and Protess differ in many ways. Protess is a professor, not a Breslinesque tabloid columnist. Benton is a heavy drinker. Protess says he is not. In a version of the pilot script, there is clear sexual tension between Benton and one of his female students. (Palm says the tension will not be a running theme.) In nineteen years at Northwestern, Protess has never been accused of unprofessional behavior in his relationships with students. "My concern," says Protess, "is that when I come to teach on Tuesday mornings, my students, the majority of whom often are female, will wonder if that was the real me they saw on TV the night before. 'Is he drunk?' 'Is he going to hit on me?' "

Wolf says *Deadline* doesn't portray Protess at all. "The genesis for the show is an amalgam of many reporters I have known over the years," Wolf claims via e-mail. "The two most prominent being Mike McAlary and Jimmy Breslin, with a little Murray Kempton and Jack Anderson, too. I have never met David."

Wolf may not know Protess, but last year, when Wolf was gathering ideas for *Deadline*, Protess and his students were front-page news after they helped free Anthony Porter from death row in Illinois, where he had spent sixteen years for a murder he didn't commit. Wolf did not answer a question, posed through his publicist, about what influence Protess's story had on his decision to include students in his show.

Lawyers for Protess and the show's production company, Studios USA Television, began talking in mid-July. By early August, nothing had been resolved. Protess says he does not want to sue the production company, but will consider it if he can't get a disclaimer.

The script Protess got through his lawyer, dated January 14, 2000, contains similarities to the Porter case. Both involve wrongfully convicted defendants on death row whose execution dates are looming. In both, the professor and his students recreate the crime and determine that the eyewitness could not have seen what he said he saw. Then they find the real killer. When Porter was released, he hugged Protess. Benton, too, is hugged by one of the men he frees. Wolf did not respond to questions about the similarities.

It's not that Protess is fundamentally opposed to a little prime-time publicity. Had Wolf consulted him about the show, he says, he would have listened. "I am not naive enough to believe that it isn't important to reach a mass audience," Protess says. "But to fictionalize what I do and create a character who, in my view, is unsavory, without even contacting me, is reprehensible."

— Brent Cunningham

Cunningham is CJR*'s associate editor.*

A REAL NO-NEWS TOWN

Utica, New York, a small upstate city that has endured decades of economic decline, recently survived a hardship of another sort. Thanks to Mayor Edward A. Hanna, a seventy-eight-year-old millionaire, readers of Gannett's *Observer-Dispatch* routinely got half the story.

From December to May, Hanna required reporters to file written questions to department heads. The written replies could be delayed, terse, or nonexistent. No interviews. No direct access to city officials. For a while, city hall even eliminated the police blotter.

Why? Hanna says he cut the news flow to minimize the risk of reporters' mangling the truth. First Amendment experts called this extreme.

At first, the paper fought back carefully, attributing statements to a city official's written response and leaving it at that. Donna Donovan, *Observer-Dispatch* publisher, says Gannett lawyers urged the paper not to seek injunctive relief. No one, she says, knew Hanna's restrictions would drag on. "We were trying to turn the other cheek," Donovan says. "Next time we'd be much more aggressive."

By spring, the paper did turn up the heat. Stories listed missing facts and quoted citizens enraged by the lack of information. Editorials raged under headlines such as: "In Darkness of Silence, Uticans Suffer." One caption devoted a sentence to the obvious fact that a car had smashed into a supermarket and another to the list of unanswered questions, including who was driving and whether anyone was hurt.

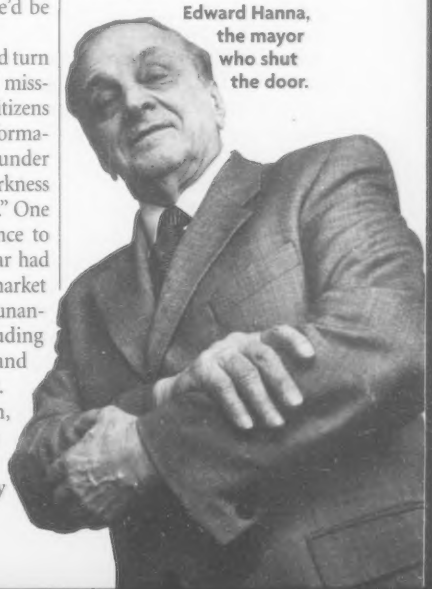
The mayor, in turn, purchased public-access radio and television time to slam "the lousy monopoly newspaper." Hanna posted handbills at his own expense, declaring "Inaccurate Reporting is Worse than No Reporting at All." Lawsuits flew both ways.

The good news from Utica is that people seemed to miss the reporting. One afternoon, all the rush-hour commuters interviewed on Genesee Street, regardless of how they felt about the *Observer-Dispatch* or the mayor, said they felt cheated by the dispute. "Everyone's being cut off and I can't see why," said Valerie Smith. "I see fire trucks, paramedics, and ambulances come into my neighborhood after an incident and I want to know why."

In May, Hanna mysteriously lifted the controls. June brought an epilogue: two current and two former male employees announced plans to sue Mayor Hanna for allegedly sexually harassing them, charges he denies. In July, he left office abruptly, citing an eight-year-old heart condition. He resumed his silent treatment toward the press, this time as a civilian.

— Jane Gottlieb

Gottlieb is a writer based in Albany.



MICHAEL J. O'CONNOR

Edward Hanna, the mayor who shut the door.

CURRENTS

AN L.A. ACCENT

John Carroll, the new editor at the *Los Angeles Times*, is moving quickly. He installed a new managing editor, Dean Baquet, in August. Baquet was the well-respected and well-liked national editor at *The New York Times*, and in hiring him Carroll helped even up the score with the New York paper, which has lured away many *L.A. Times* journalists in recent years.

Carroll also made a smaller change that the paper's many Spanish-speaking readers will surely appreciate: from now on, when a Spanish name or word uses a tilde (that little squiggle over an "n"), the *Los Angeles Times* will too. Carroll met with a group of the paper's reporters and editors, who are interested in improving coverage of the Latino culture and community. They pointed out that the tilde is no mere accent, but something that turns an "n" into another letter altogether. Thus, to leave it out is to misspell the word. In Spanish, its absence can change meaning.

To produce a tilde required several keystrokes on the *Times*'s aging computer system. Until the system is updated, those keystrokes will be made.

— Kimberly Yuen

Yuen is an intern for CJR.

LANGUAGE CORNER

ONCE IS ENOUGH

A nice, precise word to remember: tautology. It's a subdivision of redundancy, and it means saying something twice, unnecessarily (and most often unintentionally).

To wit: "The general consensus of opinion seems to be that there is an abundance of choice." Drop "general" and (for goodness' sake) drop "of opinion"; they're already there in "consensus." It's a tidy word meaning a general opinion, and it needs no embellishment.

Other classic tautologies involve the time of day: "Each morning at 7:45 A.M. . . . Most evenings he did not return home until eight o'clock at night." Whew! "A.M." (for antemeridian or ante meridiem) means before noon; having started with "each morning," we don't have to paint the lily with "A.M." (And having said "Most evenings," we certainly don't want "at night.") Yet it's common to read things like "7 P.M. Thursday night" or "9 A.M. yesterday morning." Tautologies all.

Temptations abound. Do we really want to say that "additional restrooms will be added" or that a road project will "add additional lanes"? Or describe someone as a "knowledgeable expert"? Or say an employer requires, or doesn't, "prior experience"?

Think taut.

— Evan Jenkins

A lot more about writing right is in Language Corner *at* CJR*'s Web site, www.cjr.org.*

PREVIEW

NEW OWNERS, NEW CHANCE

These are dramatic times for newspaper ownership. The Tribune-Times Mirror megamerger was the largest newspaper acquisition in history, but the sale of *The Arizona Republic* and *The Indianapolis Star* to Gannett, and Hearst's purchase (finally) of the *San Francisco Chronicle* change the journalistic landscape. All these deals underscore that in the digital age newspapers remain valuable, particularly when dominant in their marketplaces and the prime source of local news.

It seems pointless in the new millennium to wring our hands about local ownership. We are not going back to that. Rather, this could be an opportunity for the new owners to address community needs by investing in the editorial content that helps produce those nice multiples. Hearst has taken the unique step of keeping all 217 *Examiner* journalists to add to the 378 already in the *Chronicle* newsroom. That's a lot of people. Properly deployed, they could bring the *Chronicle* to the front ranks of newspapers.

Gannett has tended to take the cookie cutter approach to its newspapers, but it has never owned a local paper in a market the size of either Phoenix or Indianapolis. Gannett has shown that it knows how to produce a good paper: *USA Today*. Its new c.e.o., Douglas McCorkindale, could break new ground by letting the two papers maintain their own voices, both in their unique editorial pages and in their coverage. It didn't happen that way in Louisville and Des Moines, but with a new century and a new c.e.o., why not?

— H. Valda

TAILWIND: STILL IN THE AIR

The controversy over CNN's June 1998 "Tailwind" exposé won't go away. Jack Smith, its co-producer, sued CNN in Atlanta on June 30, charging that network executives fired him in July 1998, not for shoddy journalism, as claimed, but as part of a cave-in to U.S. government, civilian, and military officials. The eighteen-minute report, shown on CNN and published in different form by *Time* magazine, was about an alleged covert U.S. military mission — codenamed Operation Tailwind — in Laos during the Vietnam war. Smith's lawsuit expands the allegations that his fired co-producer, April Oliver, raised in her own suit. CNN and Oliver settled earlier this year. The terms are sealed. Oliver, now a law student at George Mason University, says she still plans to finish a book under contract about her Tailwind experience. Smith, a veteran newspaper and TV journalist who is teaching at Loyola University and DePaul University in Chicago, is using some material in his suit that was developed in Oliver's litigation. CNN sources have declined to comment on Smith's suit.

— Steve Weinberg

News councils *help* the press? Minnesota news people say "YES!"



John French
Minneapolis Attorney,
represented the Star Tribune

I've seen the Minnesota News Council in action and I've been favorably impressed. The News Council provides an alternative to lawsuits that would be expensive, time-consuming and detrimental to the best interests of both parties.

It provides an important forum for the consideration of grievances that do not rise to the level of legal wrongs, but are nonetheless real and important to those who feel aggrieved.

The News Council process serves the media by reminding them that, while the press is free from government control, their continuing success depends on remaining accountable to the people they serve.

Whether a complaint is upheld or denied, the public usually feels there was a significant gain in being heard. And the media often learn something valuable by listening to the deliberations.

But perhaps as important as any decision of the News Council is the fact that a news organization participates in the hearing process and openly discusses media ethics. I believe it increases the press's credibility.



Terry McCollough
Publisher, Brainerd Daily
Dispatch and former
News Council Member

I'm one of the few people who has seen the News Council from both sides. I served as a media member in the 1980s and have appeared before the News Council twice in response to complaints.

The existence of this forum — and our willingness as journalists to support it — sends a positive message to a public that is increasingly disenchanted with us: "We are worthy of your trust, and we are accountable."

The concept of a news council should spread across the country. It could be the best ally we have in preserving a free press.



Don Smith
Publisher, Monticello Times
and former
News Council Member



Walker Lundy
Editor/Sr. Vice President,
St. Paul Pioneer Press

In 10 years, I have appeared before the News Council only once. It felt quite uncomfortable having those 20-some citizens — half of them journalists — asking why we did what we did. But the hearing was fair, both sides were heard, and the Council voted in our favor. Afterwards, the complaining citizens and I shook hands. I think they left feeling better because they were heard in public. I left with a vivid reminder of both our power and our responsibility.

I have come to be a big supporter of the News Council. On page 2A, every day, we invite readers to contact the News Council if they don't get justice from us. How can we not be a part of something that can serve as a public antidote to media arrogance? These days, journalists can use all the help we can get.

A news council can be an extremely useful tool. To learn more, consult the Minnesota News Council's web site at www.mtn.org/newscouncil, or call the Council at 612-341-9357.

This ad was paid for by

The Ethics & Excellence in Journalism Foundation

DARTS & . . .

*TIMES*WATCH

Are editors nodding at *The New York Times*? The June 11 Arts & Leisure section carried a lively feature on the popular appeal and educational benefits of such real-life television series as *Paramedics, Maternity Ward,* and *Trauma: Life in the ER.* But the piece neglected to mention that those shows are produced and co-owned by The New York Times Company.

A June 14 Bulletin Board item about a rally held the previous day to pressure state lawmakers to increase the education budget noted that Harold O. Levy, the New York City schools chancellor, had appeared as one of the speakers. But the report was evidently based on a press announcement of plans that the *Times* failed to confirm: in the event, the chancellor never showed up.

Meanwhile, a report by Fox Butterfield, the paper's national crime correspondent, seems to have fallen unnoticed into the recycling bin. As revealed by Heather McDonald in the Summer issue of *City Journal*, Butterfield's analysis of urban crime control, published on March 4, at the height of the public outrage over the police shooting of Patrick Dorismond, bore striking similarities — including some duplicate sourcing and quotes from police officials and criminologists — to Butterfield's analysis of urban crime control at the height of the public outrage over the police shooting of Amadou Diallo, eleven months before.

LOW-FLYING JOURNALISM

In May, three first-class newspapers allowed themselves to be downgraded to business class by a United Airlines publicist. The company was ready to release the news of a proposed superjumbo merger with US Airways but wanted to keep control of the story as it landed on the nation's doorsteps. Would *The Washington Post, The New York Times,* and *The Wall Street Journal* get on board a publicist's plan to give the papers exclusive details of the deal in return for their promise not to load on any outside comment? You bet. As it turned out, however, the self-censoring plan became inoperative when the *Financial Times* took off with the merger story, posting it on its Web site and e-mailing subscribers. As Simon Waldman observed in his London *Guardian* column, "A great result for the *FT*, in a market where minutes can literally mean millions, and (hurrah!) a potentially crushing blow for cushy deals between journalists and p.r. types." Roger that.

TACKY, TACKY

Now that that string of Thomson papers has moved into Gannett's stable, you'd think that Gannett would bring to a halt the previous owner's practice of mucking up the front page with ads. You'd think so — but you'd be wrong. If anything, the deal appears to have spurred on Gannett to follow the Thomson track. In a June 9 memo, Ed Manassah, president and publisher of the once-proud Louisville *Courier-Journal,* advised the staff thusly: "On Monday, June 12, we will begin having a one-inch-high promotion across the bottom of the front page. This promotion will continue for a couple of weeks. At the end of June we will introduce advertising in that space . . . ."

DOUBLE STANDARD

When a campaign debate scheduled at a Cranston, Rhode Island, library during the Democratic primary suddenly evaporated because three of the four candidates for a district seat in Congress refused to cross a picket line of unionized police, *The Providence Journal* gave the story page-one, above-the-fold play, observing in its lead that the episode was "a demonstration of labor clout." But the very next day, when a panel discussion at a health-care forum, jointly sponsored by the paper and Brown University, had to be called off because three of the panelists — a state senator, the lieutenant governor, and the attorney general — refused to cross a Newspaper Guild picket line against *The Providence Journal,* it was an entirely different story: that cancellation got a mere sliding mention in the final paragraph of the paper's twelve-paragraph story about the conference at the bottom of page 3.

DRUG LIFT

In a June 8 article, Niles Lathem of the *New York Post* presented a richly detailed account of the rising role of women in international drug rings. But he failed to give even a wave of the hand to Hariette Surovell, author of an original, richly detailed Webzine report she gathered over the past four years and that she called QUEENPINS OF THE CALI CARTEL. Posted on the Exquisite Corpse Web site on April 14, Surovell's report had set down the concept, as well as innumerable facts and phrases, that appeared in Lathem's piece, QUEENPINS: THE WOMEN WHO RUN THE COCAINE BUSINESS. (CJR's calls to Lathem and Ken Chandler, editor of the *Post*, were not returned.)

DRILLING FOR DOLLARS

Organizers of the Permian Basin International Oil Show, to be held in Odessa, Texas, in October, have been busy for months with plans for what a October 1999 press release described as "a technical program geared toward the interests of oil and gas producers throughout the world." Leading that program is John Paul Pitts, who, when he's not being chairman of the show's science and technology committee, is so-called oil editor at Hearst's *Midland Reporter-Telegram,* based twenty miles from Odessa.

. . . LAURELS

SMALL WORLD

Did the idea for Epcot spring full-blown from the head of Disney, or did the colossus steal it from a visionary intelligence officer in the United States Air Force? The family of that officer, Lt. Col. Robert Jaffray of Ohio — a man who daily dealt with cold-war realities while dreaming of a global theme park to create world peace; who spent the early 1950s developing, refining, copyrighting, and trying to finance his "Miniature Worlds" plan; who in 1963 took the plan to Disney, which dismissed it out of hand; and who died this spring without ever seeking any recognition from Disney for his possible contribution to what's become one of the most popular tourist attractions in the world — the late colonel's family would seem to have a case for the statue of Jaffray they'd like Disney to put up at its Epcot pavilion. That case has been taken up by Michael D. Sallah, national affairs reporter for the Toledo, Ohio, *Blade*. Drawing on letters, concept paintings, interviews, Library of Congress documents, and a comparative review of designs for every world's fair and exposition since 1893, Sallah's front-page report (May 28) objectively traced the many "uncanny likenesses" between Jaffray's Miniature Worlds and Disney's Epcot. A follow-up story on May 31 , as well as a *Blade* editorial on June 3, gave added pressure to the challenge that Disney release its early drawings and concepts for the park.

VEHICLES FOR CHANGE

After all that time spent stalled in cautious traffic, consumer reporting may be moving once again into the fast lane. On the national level, *Dateline NBC* presented an hour-long investigation into the little-known methods used by State Farm, as well as many other insurance agencies, to justify denying the legitimate medical claims of automobile-accident victims. Fifteen months in the making and based on an examination of some 70,000 records and interviews with 250 people, John Larson's June 23 report not only documented State Farm's policy of sending those medical claims to outside companies for purportedly independent "paper review" by purportedly qualified (though sometimes nonexistent) doctors; it also showed that the recommendations produced by such review were invariably — and far from accidentally — in State Farm's favor. Lawsuits, state investigations, and reimbursements to some 500 customers are in the works. On the local level, KCBS-TV in Los Angeles, home to more cars and dealers than any other place in the world, slammed fearlessly through a longstanding barrier with its five-part May-sweeps series, "What Some Car Dealers Don't Want You to Know." Demonstrating the secretly padded contracts, inflated buy-down fees, overcharged interest rates, and punishing sales tactics displayed by various Chevrolet, Ford, Toyota, and Nissan dealers (among them, station advertisers), investigative reporter Joel Grover unveiled a classic tale of widespread fraud. Even before the investigation ended, one dealer was raided by DMV agents, while others hastened to make things good with their newly educated customers.

GETTING UNDER THE SKIN



In a monumental six-week, millennium-summer series, *The New York Times* unflinchingly explored the raw realities of relations between black and white Americans. Documenting the day-to-day experiences of normal life — in places that ranged from a Georgia church to a Texas construction site to a Kentucky army base, from a Louisiana football field to a Harlem precinct house to a Baltimore stage set, from a New Jersey schoolroom to an Atlanta boardroom to an Ohio newsroom and more — the fifteen-part series, written by a team of beat reporters, showed how far we all have come — and the distance yet to go. Unique in concept, powerful in execution, the series prompted more than one parody. Those easy parodies, however, are easily forgotten; "How Race is Lived in America" marks a memorable milestone in our social, and journalistic, history.

STREET STORIES

Much of the world was undoubtedly shocked by those page-one stories on June 15 reporting on the arrest of 120 alleged stock swindlers, ten of whom had reputed connections to New York's five Mafia families. But to readers of *Business Week*, it was just the latest, most satisfying chapter in an investigative saga they'd been following for years. In a December 16, 1996, cover story, "The Mob on Wall Street," senior writer Gary Weiss exposed the infiltration of organized crime into the markets, tracking the mob-exploited stocks and challenging the independence of the National Association of Securities Dealers. In his December 15, 1997, cover story, "Rip-Off!", Weiss showed how small investors were being fleeced through market manipulation and broker bribery. And in his April 26, 1999, cover story, "Scandal on Wall Street," Weiss uncovered major improprieties, from price-fixing in the options market to conflicts of interest by brokers on the floor, at the American Stock Exchange. Indictments in Florida and New York in 1997, as well as those this June, named many of the stocks, brokerages, stock promoters, and reputed mobsters fingered by Weiss.

The Darts & Laurels column is written by Gloria Cooper, CJR's managing editor, to whom nominations should be addressed.

CAMPAIGN 2000

15,000 Journalists In Search of . . . Parties?



Max Frankel is the former executive editor of *The New York Times.* He was also the former head of the Washington bureau and former editor of the editorial page at the *Times.* He is the author of *The Times of My Life and My Life with The Times.*

Waste of Money, Waste of Time — Let's Invest in Something Meaningful

BY MAX FRANKEL

What possesses a media mob of 15,000 to clamor to cover our quadrennial political conventions? No, not cover, smother. Would a team of 15 learn any less?

It's been four years since Ted Koppel noisily quit the convention scene and challenged the news media to reconsider their definitions of political news and reposition their cameras for a more useful perspective on the long campaigns. But all we've done is spread our inane convention chatter to more cable channels and Web sites, liberating a few more prime-time hours for the networks' ratings and money chase. (Brokaw, Jennings, and Rather all dutifully recorded the *politicians'* pursuit of corporate bucks at this year's conventions; they just neglected to explain that it is television company cashiers who end up with most of those campaign millions.)

I do not begrudge the media crowd all that expense-paid merriment in Philadelphia and Hollywood (at parties literally exempted by an act of Congress from the customary prohibition on lobbyists' spending for food and drink). But let's call it comp time and not pretend to be doing significant work. As David Broder — the author, mind you, of the prophetic *The Party's Over* — argued in justifying his journey to this summer's rallies, the conventions no longer have any significant function or meaning, and only a diminishing audience, yet: they're "still fun for the political activists and reporters who attend — a great time to meet, greet and gossip."

Okay. But why spend tens of millions of precious newsroom dollars and television hours to witness nominations that were decided by primary votes many months ago? Why inflate these no-news pep rallies of the faithful and trick the country into thinking something important, even if dull, has occurred?

Ah, goes the reply, it's the country's first "real look" at the candidates. And check out those polls: there's a big "convention bounce" for George, and here comes Al's "bounce," can he even the score? Consider: twelve hours of mostly tedious commercial network chatter time and wall-to-wall PBS, CNN, C-Span, MSNBC, and Fox News to "introduce" the candidates? And to test the public's first and fleeting reaction to their hour on stage?

No, this media mania is mostly reflex and nostalgia. It expresses a longing for a time when power was visibly brokered at conventions among clashing and cooperating forces and egos. It harks back to a time, long gone, when parties chose and hoisted their presidential candidates rather than the other way around and to a time when networks, anchors, and reporters made themselves famous by celebrating the fateful machinations of state and big-city political bosses.

Television and the modern welfare state long ago combined to destroy that convention-centered system. It is in Washington, not in party club houses, that politicians now address most of the needs of citizens. It is in primaries, not conventions, that nominations are won. And it's with television ads and appearances that presidential aspirants seize control of a party's label, slogans, and treasury to sell themselves directly in the nation's living rooms.

So TV is king in our contemporary politics. It makes and breaks candidates — not only describing but actually designing them. The analysts at conventions, many of them astute students of American history and politics, are thus compelled to behave like fashion reporters, interpreting the smirks, smiles, struts, and body language of the candidates (more shoulder, please, for B but much, much less on G!). And it is largely with purchased television time, and the millions needed to pay for it, that the candidates then compete.

Television stations now gross between



The Bushes and the Cheneys celebrate the close of the Republican National Convention.

AP/VIDEOWORLD-AMY SANCETTA

$600 million and $1 billion from political advertising even as their news reporting on politics has been reduced to a few seconds a night. So the summer excess of convention coverage serves mainly to cover up that shameful retreat from meaningful news reporting. A show of convention coverage assuages politicians who retain at least a theoretical power to regulate the industry and to demand programming "in the public interest." And the coverage becomes a loss leader, an investment amply repaid by political commercials.

Yet now that profitable entertainment programs are replacing summer re-runs, the broadcasters feel pressed also to keep reducing their convention programs. After all, the number of hours profitably devoted to reporting and analyzing the election of CBS's *Survivor* — even on rival networks! — already surpasses all the political news you are destined to hear before November 7.

This continuing retreat — to about twelve hours of commercial network time for each convention in August, from nearly thirty hours in 1996 and fifty hours in 1976 — would be salutary and welcome if the savings in time, money, and energy were redeployed and used to illuminate the unfolding campaigns this fall. But that is not the plan.

Tom Brokaw, whose skybox commentary at the conventions this summer was mostly shunted off to MSNBC's small cable audience, explained sensibly enough that "The parties have drained all the drama out of the proceedings." But he and his corporate masters have not scheduled a compensating round of prime-time documentaries to illuminate the issues that dominate this year's campaign.

Andrew Heyward, the head of CBS News, predicted with good reason that live network coverage of the conventions in 2004 may well be limited to the candidates' acceptance speeches. But he, too, offered no compensating redeployment of his cameras to more meaningful political debate.

And in the opinion of Jeff Zucker, the shrewd executive producer of NBC's *Today*, even niche coverage of the conventions on cable channels may be "a colossal waste of time and money" because "great drama and great television and great journalism are built upon conflict." True enough. But surely a medium that knows how to entertain us with the infantile maneuvers, jealousies, and competitions of a few adventurers on a distant island can find drama in America's endless experiment in self-government, locate the tension among those who win and lose from foreign trade, sort out the rival claims of credit for this decade's prosperity, track down the causes of our catastrophic failure in the thirty-year war on drugs. Programs that pursue these themes and compel responses from the presidential candidates and leaders of Congress would not cost much more than the roughly $10-$15 million spent by each network in Philadelphia and Los Angeles. Nor would a few free minutes of candidate face time every evening in October require as much air as was squandered on prancing delegates and skybox prattle in August.

Armed with only a single remote, I squandered most of my own August consuming the political coverage on the networks and cable channels while reading randomly in a few newspapers and taking an occasional walk on the Web. Even for a political glutton, the screen offered a mostly indigestible diet. For reasons of either economy or modesty, the networks fielded all too little independent analysis of their own and felt compelled to cover up the dull doings on each convention floor with the repetitious, often ill-considered and grating chatter of paired partisans. (They kept revolving like suitcases on an airport carousel,

A Nashville, Tennessee, rally announcing Senator Joe Lieberman as Al Gore's running mate.



AP/VIDEOWORLD/MARK HUMPHREY

ENSCONCED IN THEIR OLD-FASHIONED GLASS BOOTHS, THE TELEVISION ANCHORS ARE LEFT WITHOUT THE MEANS TO PRODUCE TRULY INSTRUCTIVE POLITICAL NARRATIVES

wrote John Carman of the *San Francisco Chronicle.*)

The anchors and their political experts — most notably Tim Russert, Chris Matthews, Jeff Greenfield, Mark Shields, and Paul Gigot — are themselves far more thoughtful and experienced observers of the political wars than the dueling duos they imported to help fill the empty stretches. Carville and Bennett, Kemp and Cuomo, North and Begala, Kondracke and Barnes made the weekly *McLaughlin Group* sound like a Quaker meeting.

So the audience shrinks and the shrinkage becomes pretext for ever less political coverage. Yet without the help of creative television producers and reporters, the public cannot possibly come to understand the debates about antimissile missiles. (I caught part of a mid-convention lecture on C-Span by Senator Joseph Biden opposing missile defenses and felt greatly enriched by perspectives I had never encountered in any other medium.) Unless tutored by the minds that invented a *West Wing* or *Seinfeld*, how can the public ever grasp the complexities of Medicare coverage or Social Security bookkeeping? Only the major television producers possess the imagination and talent to make the voters' choices important and interesting — the essence of news.

But the corporate masters of television have failed to set aside the necessary personnel and resources to program for the public interest. And Congress, with the mindless support of both Republican and Democratic administrations, has relieved the industry of all legal and even moral obligations to repay the public for the profitable exploitation of a public asset, the broadcast spectrum.

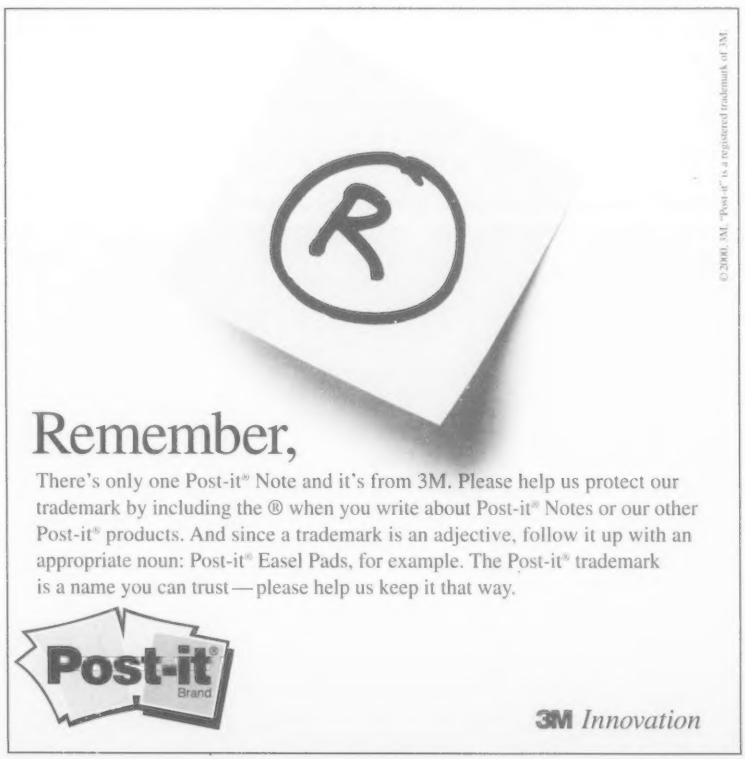
Thus ensconced in their old-fashioned glass booths, the television anchors are left without the means to produce truly instructive political narratives. No one ventured to teach us in attractive ways why the Middle West states are endlessly mentioned as this year's "battleground." No one explored the evolution of the vice president's office and precisely what Al Gore accomplished in that office. Surely the most annoying cliché was the judgment that Richard Cheney added "gravitas" to the Republican ticket, but no one probed his accomplishments as Secretary of Defense.

Both Cheney and Joseph Lieberman were battered on the Sunday talk shows preceding their nominations for vice president as rival research departments strained to find conflicts between their past positions and the demands of their new situation. But in all the badgering I heard not a word about a subject that could well make a movie: the common and indeed commendable evolution of points of view among politicians who rise from parochial and regional duties to national office. FDR and balanced budgets. Nixon and China. Johnson and civil rights. I have seen no TV segment about how the pressures of public opinion shape a political career and what circumstances cause office holders to bend beyond even conscience.

Of course, politicians hide their conversions and deny unsavory compromises. But games of "gotcha" on *Meet the Press* or *Face the Nation*, whatever their headline value, do little to educate the public in the political facts of life. Some such education could occasionally be heard midst all the convention chit-chat from Michael Beschloss and Doris Kearns Goodwin. But their expertise in past presidencies did not really extend to the nominees at hand.

Besides, like most other convention commentators, they were soon exhausted from their syndication on multiple channels; my remote could barely keep up with the peripatetic Ms. Goodwin, who on at least one occasion did not finish a thought begun on PBS until she popped up moments later on MSNBC.

Is it any surprise that the audience for conventions keeps shrinking even as the population grows? About 15 million households watched on the networks, a few million more on PBS and assorted cables. C-Span, the full-text channel, faithfully satisfied the podium worshippers and paid commendable attention to policy discussions on the convention perimeters. All the rest shuttled from rostrum to floor to skybox to the protest in the streets with voice-overs that rarely rose above the



banal. That political combat need not be so tiresome on the screen should be evident in the creative and colorful ways our networks have learned to cover the Olympics, the World Series, even Monday Night Football.

Not the least of television's sins is its Pied Piper misdirection of other media. Of the approximately 15,000 credentials issued at each convention, only about 4,000 went to 150 radio and television organizations. About 5,000 other badges went to daily newspapers and 1,500 more to periodicals, plus 600 to photographers and photo editors. It is a ludicrous assembly of people whose main mission is to assert their presence (and maybe help their bosses obtain invitations to the better parties). But it will not end until the cameras are turned off.

Although Johnny Apple reported at the start of the Republican convention that George W. Bush himself considered them an "anachronism," *The New York Times* fielded a delegation of seventy writers, editors, photographers, and technicians and filled five or six pages each day, mostly, I would guess, for the stimulation of other news teams. As the paper might have guessed, its best political stuff during the conventions were political biographies, voter interviews, and campaign finance exposés carefully reported and composed far from the madding crowd.

Times reporters turned up each night on Koppel's *Nightline*, as did *Washington Post* reporters on MSNBC, to briefly promote their next day's articles. Though generally poor performers, the reporters and their newspapers may benefit from such advertising, but their appearances only underscored the lack of comparable enterprise by the companies that own the cameras.

The stars of the *Times* and *Post* also took cameo roles on assorted Web sites, sharing their own gravitas with the conventions' new toys. The champ, surely, was Howard Kurtz, reporting on the media and on media covering media in the *Post*, on the Web, and on MSNBC with such scoops as John McCain's recall from the airport to join Bush on stage during the Republican balloon drop. At more newsworthy events, this kind of diversion of journalistic energy should be worrisome indeed. It forces reporters who are capable of thoughtful analysis and gifted prose to give hasty priority to time-sensitive bulletins and casual Internet chatter. The result is a confusion of roles and diffusion of talent that ought to be resisted by print editors. Whatever the Web may have to offer journalism in the future, for the moment it is mainly a distributor rather than creator of important information. Let it hire its own runners.

What then did at least a few of the 15,000 manage to convey?

They reaffirmed the conventional teaching of American history that primary campaigns tilt to the right until it's time to woo the center in the general election. They confirmed that the inexperienced George Bush will offer himself as a man of fresh vision whereas the highly experienced Al Gore will stress his accomplishments and competence. It took no skybox to figure out that Bush would avoid his father's mistake of choosing a running mate who was ill-prepared to serve as president or that Gore would favor one who moved him a few degrees from his president.

Indeed, it was no revelation to anyone sitting comfortably at home that Bush was eager to turn his back on the radical right firebrands who ruined his party's last convention and that Gore's problem was not Clinton's sins but the president's charm and oratorical genius. A dozen variations on these themes were tolerable. Thousands were nauseating. ■

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CAMPAIGN 2000

How Corporate Spending Blocked Political Ad Reform & Other Stories of Influence

MEDIA MONEY

BY CHARLES LEWIS

In his January 1998 State of the Union address, after decrying the campaign fundraising "arms race," President Bill Clinton proposed a major new policy that would address a big part of the problem — the high cost of campaign commercials. "I will formally request that the Federal Communications Commission act to provide free or reduced-cost television time for candidates," the president said. "The airwaves are a public trust, and broadcasters also have to help us in this effort to strengthen our democracy." Within twenty-four hours, Federal Communications Commission chairman William Kennard announced that the FCC would develop new rules governing political ads.

But days later, the powerful broadcast corporations and their Capitol Hill allies managed to halt this historic initiative. In the Senate, Senator John McCain of Arizona, the Commerce Committee chairman, and Conrad Burns, a Republican from Montana and the chairman of that panel's communications subcommittee, announced that they would legislatively block the FCC's free-air-time initiative. "The FCC is clearly overstepping its authority here," McCain said. In the House of Representatives, seventeen Republicans — including Majority Whip Tom DeLay, Appropriations chairman Bob Livingston, future House Speaker Dennis Hastert, and Billy Tauzin, chairman of the House Commerce Committee's telecommunications subcommittee — sent a blunt letter to Kennard: "Only Congress has the authority to write the laws of our nation, and only Congress has the authority to delegate to the Commission programming obligations by broadcasters." John Dingell, the Michigan Democrat and ranking House Commerce Committee member, also sent an opposing letter to Kennard. Faced with the very real threat that his agency's budget would be cut, Kennard had no choice but to retreat from the proposed rule making.

It was a humiliating and metaphorical moment for the FCC. The threat of a shrunken budget and a congressional backlash — "the likes of which would not be pleasant to the Federal Communications Commission under any circumstances" is the way Livingston described it — was too much for the FCC. Many politicians in power tend to fear free air time for the leg up it would give to challengers. More than that, free air time for political candidates would directly affect the bottom line of a very important industry and Washington player — the media industry. It would cost broadcasters millions of dollars in lost advertising revenue, and they were not about to allow a direct affront to their financial self-interest become law. Free air time quickly went from the fast track to the back burner. In a very public way, the agency and the White House had been "rolled like a pancake," recalls former FCC chairman Reed Hundt, Kennard's immediate predecessor.

Indeed, the media's success in handling the threat of free air time for candidates is but one of a stack of pancakes that media companies have rolled in Congress and the White House in recent years. Which is why the media industry is widely regarded as perhaps the most powerful special interest today in Washington.

How do media corporations win friends and influence people in our nation's capital? The old-fashioned way, by using the time-honored techniques with which business interests routinely reap billions of dollars worth of subsidies, tax breaks, contracts, and other favors. They lobby vigorously. They give large donations to political campaigns. They take politicians and their staffs on junkets.

LOBBYING — An investigation by CJR and the Center for Public Integrity found that since 1996, the fifty largest media companies (defined as companies that derive half or more of their revenues from broadcasting, cable operations, publishing, online media, and their content providers) and four of their trade associations have spent $111.3 million to lobby Congress and the executive branch of the government. The number of registered, media-related lobbyists has increased from 234 in 1996, the year the historic Telecommunication Act became law, to 284 in

MEDIA DONATIONS







THE TOP RECIPIENTS, 1993-2000

PRESIDENTIAL	CANDIDATES	AMOUNT
Al Gore, D	Dem nominee	$1,163,490
George W. Bush, R	Rep nominee	1,070,728
Bill Bradley, D	Primary challenger	1,034,004
Bill Clinton, D	42nd President	634,456
Bob Dole, R	'96 Rep nominee	294,095
SENATORS	**COMMITTEE**	**AMOUNT**
John McCain, R	Chair, Commerce	685,929*
Edward Kennedy, D	Judiciary	529,970
John Kerry, D	Commerce	470,944
Charles Schumer, D	Judiciary	435,550**
Barbara Boxer, D	Foreign Relations	417,249
REPRESENTATIVES	**COMMITTEE**	**AMOUNT**
Howard Berman, D	Judiciary	315,598
Richard Gephardt, D	Minority Leader	252,997
Edward Markey, D	Ranking, Commerce	250,350
John Dingell, D	Commerce	193,136
Mark Green, R	Science	157,340

Through 6/30/00.
Source: Analysis of data provided by the Center for Responsive Politics
**–Includes contributions to Presidential campaign.*
***–Includes contributions to House campaigns.*

TOP TEN DONORS, 1993-2000

COMPANY	AMOUNT
Time Warner, Inc.*	$4,605,209
Walt Disney Co., Inc.*	4,086,195
National Cable Television Ass.	1,992,090
National Assn. of Broadcasters	1,932,057
Tele-Communications, Inc.	1,861,935
Viacom International*	1,851,310
DreamWorks SKG	1,754,150
Joseph E. Seagram & Sons	1,484,333
News Corp*	1,477,905
Universal Studios, Inc.	1,396,274

Through 6/30/00.
Source: Analysis of data provided by the Center for Responsive Politics
**– Includes subsidiaries.*

THE MONEY

CYCLE	INDIVIDUAL (WITH SOFT)	PAC	TOTAL
93-94	$9,334,507	2,402,569	11,737,076
95-96	20,293,975	2,902,250	23,196,225
Subtotal			**34,933,301**
97-98	16,051,540	2,885,909	18,937,449
99-00*	19,584,564	1,695,560	21,280,124
Subtotal			**40,217,573**
TOTAL			**$75,150,874**

**– Through 6/30/00.*

Source: Analysis of data provided by the Center for Responsive Politics

1999. And last year, the amount of money spent on lobbyists was $31,408,965, up 26.4 percent from the $24,835,961 spent in 1996.

By way of comparison, in 1998, when media firms spent $28.5 million for lobbying, securities and investment firms spent $28 million, labor unions spent $23.7 million, and lawyers spent $19.1 million. Media companies weren't the biggest lobbying interests (airlines spent $38.6 million, defense contractors $48.7 million, and electric utilities $63.7 million). But no other sector of the economy has the perceived power to shape coverage in the news, a factor that greatly increases the media companies' lobbying weight.

CAMPAIGN CONTRIBUTIONS —Since 1993 through June 30th of this year, media corporations have given $75 million in campaign contributions to candidates for federal office and to the two major political parties, according to data provided by the Center for Responsive Politics. The next president of the United States will have gotten to 1600 Pennsylvania Avenue with more than a million dollars in political donations from media interests; Vice President Al Gore has taken in $1.16 million, Governor George W. Bush has received $1.07 million. The sitting member of Congress with the biggest haul in media money — including his presidential campaign — is Senate Commerce Committee chairman McCain, who has collected $685,929. Over all, the amount of campaign cash from the media industry is skyrocketing every election cycle, which is typical of political giving in general. For example, media corporations gave $18,937,449 in 1997-1998, a 61 percent increase over the previous, 1993-1994 mid-term election cycle.

No media corporation lavishes more money on lobbyists or political campaigns than Time Warner, Inc. The media giant spent nearly $4.1 million for lobbying last year, and since 1993 has contributed $4.6 million to congressional and presidential candidates and the two political parties. The second-heaviest media spender in Washington is the Walt Disney Co., Inc., which paid $3.3 million for lobbying and just under $4.1 million in political donations during the same period of time. This is not a subject either company appears anxious to discuss. Calls to Gerald Levin, chairman of Time Warner, and to Michael Eisner, chairman of Disney, were not returned. Nor would the c.e.o.s of the other big media political spenders answer our questions: AT&T/Liberty Media (formerly Tele-Communications, Inc.) chairman John Malone; Viacom's Sumner Redstone; Seagram's Edgar Bronfman; Ralph Roberts, chairman of the board of Comcast; DreamWorks' part-owner David Geffen; and News Corporation's chairman Rupert Murdoch.

JUNKETS —Since 1997, media companies have taken 118 members of Congress and their senior staff on 315 trips to meet with lobbyists and c.e.o.s to discuss legislation and the policy preferences of the industry. Lawmakers and their staffs have traveled near and far, to events as close as Alexandria, Virginia, and as far away as Taiwan. They've spoken at anniversaries of news organizations, gone fact-finding

in Capetown, South Africa, and toured movie studios. Blaine Merritt, chief counsel to the courts and intellectual property subcommittee, wrote that the purpose of his trip to Burbank, paid for by Walt Disney, was to "learn about Disney production facilities and review relevant legislative issues which affect the company's operations."

The cumulative cost of these 315 trips was $455,867. The top three sponsors of the all-expense-paid jaunts were News Corporation, the National Association of Broadcasters, and the National Cable Television Association.

No member of Congress traveled more frequently on the media industry's nickel than Congressman Billy Tauzin, the Louisiana Republican. He and his senior staff have been taken on forty-two trips — one out of eight junkets the industry has lavished on Congress. In December 1999 Tauzin left with his wife Cecile on a six-day, $18,910 trip to Paris, sponsored by Time Warner and Instinet, ostensibly for a conference there on e-commerce. Another member attending the same meeting, Rep. John E. Sweeney, a New York Republican, reported half the costs incurred by Tauzin, $7,445. Tauzin's wife and his son Michael have accompanied him on several industry-sponsored trips to New York, New Orleans, and Palm Springs, California.

Despite calls to his office and home, Tauzin declined to be interviewed. Andrew Schwartzman, a public interest lawyer and the director of the Media Access Project, who has been watching Tauzin for years, says he is not the least bit surprised about Tauzin's trips. "Billy Tauzin is an active, knowledgeable, and involved member of Congress who spends a great deal of time on telecommunications issues," he says. "But unlike some other members, he is not the least bit embarrassed about accepting large quantities of their generosity. This is the Eddy Edwards, Huey Long kind of streak in these guys of 'wink, wink, I'm a rogue' . . . Billy just kind of revels in it."

The second most frequent flier in Congress courtesy of the media has been Thomas J. Bliley, the Republican who chairs the House Commerce Committee. Bliley and his staff have logged nineteen junkets over the last three years.

At the GOP convention in Philadelphia, Tauzin, who hopes to succeed chairman Bliley, hosted a Mardi Gras-style celebration, complete with floats from Louisiana. The affair, attended by lobbyists and pols and reportedly costing $400,000, was underwritten by, among others, SBC Communications, which owns cable properties; BellSouth Corp.; and Comsat Corp. Not to be outdone, Tauzin's rival for the top job on Commerce, Michael Oxley, threw an American Bandstand-themed bash, complete with the show's host, Dick Clark, the day before. Oxley's dance party was paid for by contributions of up to $75,000 a pop, according to *Legal Times*, from the likes of COMSAT Corporation, Satellite SuperSkyway Alliance, and SBC Telecommunications; the total cost was estimated in the $300,000-to-$400,000 range.

The largess extended by the media industry is not limited merely to Congress. We also found that Federal Communications Commission employees were taken on 1,460 all-expenses-paid trips sponsored by media corporations and associations since 1995, costing a total of $1.5 million. A group called the Institute for International Research paid for sixty-two trips at a cost of more than $950,000. The innocuous sounding IIR is a privately held, global conference organization group, designed to allow corporate clients "an excellent opportunity to showcase your products in front of key decision makers . . . and to ensure maximum networking opportunities." The FCC's Office of Policy Planning chief, Bob Pepper, tops IIR's list of favorite regulators, with eight trips totaling more than $23,500.

No media corporation lavishes more on lobbyists or politicians than Time Warner

THE BIG PLAYERS

The intermeshing of public and private sectors has, of course, been an endemic problem in Washington for years, and the social and professional interaction between the media business and the government that regulates it is, not surprisingly, quite extensive. For example, Podesta & Associates, now known as Podesta.com, is the outside lobbying firm representing the widest array of media behemoths. Since 1996, the company has received $1.62 million as the Washington representative for Viacom, Time Warner, and NBC. It is headed by Tony Podesta, whose brother John happens to be the White House chief of staff. Twenty-three members of its staff of thirty-three formerly worked on Capitol Hill for one party or the other. One of them, Kimberley Fritts, is the daughter of the president of the National Association of Broadcasters, NAB.

No media organization spends more money lobbying or has more people covering Washington than the NAB, which has spent $19.42 million to persuade government officials since 1996. NAB president Eddie Fritts was a college classmate and is a close friend of Senate Majority Leader Trent Lott, and on occasion this relationship has been immensely helpful to the broadcasters. There are twenty registered lobbyists at the NAB, seven of whom came from congressional staffs, the FCC, and the Federal Trade Commission. Until recently, their ranks included Kimberly Tauzin, daughter of Billy Tauzin.

The Newspaper Association of America has spent $6.5 million on lobbying since 1996, using four in-house lobbyists and four outside firms, most notably Wiley, Rein & Fielding, whose founding partner, Richard Wiley, once served as chairman of the FCC. They've lobbied on everything from the Freedom of Information Act — certainly an understandable concern for journalists — to postal reform bills and amendments to the Fair Labor Standards Act that could change the rules governing independent contractors. They've also sought to overturn FCC rules that limit the number of stations any broadcaster — including newspapers — can own.

Media corporations have spared no expense in Washington, hiring all of the "usual suspects" kind of big-name lobbyists. They include former Republican party chairman Haley Barbour (CBS); Tommy Boggs, son of the long-deceased House Majority Leader Hale Boggs and U.S. Ambassador to the Vatican Lindy Boggs, and brother of ABC News correspondent Cokie Roberts (National Cable Television Association; Magazine Publishers of America); a former Reagan White House chief of staff, Ken Duberstein (Comcast, National Cable TV Association, Time Warner); a former Nixon White House aide, Tom Korologos (Cox Communications); a former Carter White House aide, Anne Wexler



THE BUSH/GORE SCORECARD

In pursuit of their parties' nominations, both Al Gore and George W. Bush have topped the amount of media money raised by Bill Clinton for his 1996 run. Both have topped $1 million since 1993. Gore's media money — nearly 1.2 million since 1993 — comes mostly from three large conglomerates: Time Warner, Viacom, and Disney. Bush's money — just over $1 million in the same period — comes mostly from smaller, regional broadcast and cable companies.

Gore's relationship to big media is a long one. In October, 1987, Michael "Mickey" Kantor — a lobbyist, fundraiser, and later chairman of the Clinton-Gore 1992 campaign, as well as the administration's first Trade Representative — arranged a meeting in the executive dining room of MCA's Hollywood headquarters. According to *The Washington Post*, bigwigs from the entertainment industry sat down with Gore, at the time a candidate for the 1988 Democratic nomination, and his wife, Tipper. A major topic was the couple's 1985 campaign against raw lyrics in pop records. The Senate hearings that grew out of that campaign — in which Frank Zappa and Dee Snider of Twisted Sister testified — were a mistake, they said, that had "sent the wrong message," as Mrs. Gore put it. Ever since, Gore has counted entertainment and media executives among top supporters.



GORE: AP/WIDEWORLD

Al Gore as a Disney "Beast"

Gore is close enough to Steven Spielberg that the filmmaker is one of just a handful of friends to stay overnight in the Vice President's residence over the past seven years. Gore was close enough to Disney that in 1995 he and his wife Tipper requested and received two "Beauty and the Beast" costumes worth $8,365, according to the *Post*, custom-made in Los Angeles to the Gores' precise measurements, for their annual Halloween party. The day before the event, the costumes arrived in Washington, along with a makeup artist to apply the mask that the vice president would wear. At the time, Disney was awaiting Justice Department and FCC approval of its $19 billion acquisition of American Broadcasting Company, Inc. (The deal was approved months later.) Disney is among Gore's most generous media supporters, having contributed $68,000 over the course of the politician's career.

Gore's fourth most generous "career patron" is Viacom. The company's executives and employees have steered $115,550 to Gore over the course of his career, the bulk of it, some $90,675, since the vice president began his quest to reach the White House. Time Warner's employees have contributed $57,200 to Gore, and its merger partner, America Online, has given him $27,000.

GORE'S TOP MEDIA DONORS 2000*

COMPANY	AMOUNT
VIACOM	$90,675
TIME WARNER	$57,200
CABLEVISION	$53,200
AMERICA ONLINE	$25,750
NEWSCORP.	$24,000

*as of June 30

BUSH'S TOP MEDIA DONORS 2000*

COMPANY	AMOUNT
AMFM, INC.	$80,250
COMCAST CORP.	$32,000
TIME WARNER	$30,400
AMERICA ONLINE	$23,000
MEDIA ONE GROUP	$17,000

*as of June 30

Topping the list of George W. Bush's media patrons is AMFM Inc., owned by Hicks, Muse, Tate & Furst, Inc., of Dallas, a firm that specializes in leveraged buyouts. AMFM, the nation's largest chain of radio stations, and its various subsidiaries have contributed $80,250 to Bush's presidential campaign. Thomas Hicks, the firm's chairman, bought the Texas Rangers baseball team for $250 million in 1998 from the ownership group that included Bush. (The high sale price for the relatively small-market team was due in no small part to the taxpayer-financed stadium, the Ballpark at Arlington, which was built for the team while Bush, whose portion of the profit on the sale was $14.3 million, was an owner.)

The Rangers aren't Hicks' only sports property — he also owns a hockey team, the Dallas Stars. In 1997, Governor Bush shepherded a bill through the state legislature that allowed a sales tax increase to fund a new arena for the team, as well as for the city's NBA franchise, the Dallas Mavericks.

—Derrick Wetherell

Wetherell is a staff member of the Center for Public Integrity.



AP WIDEWORLD/ERIC GAY

George W. Bush as past owner of the Rangers

(Comcast, Univision); and former FCC chairman Richard Wiley (CBS). After all, from copyright issues to broadband access to media ownership rules, billions of dollars are at stake in the changing media industry.

Corporate executives are often directly involved in the lobbying process, and media moguls are no different. In his recent memoir, *You Say You Want A Revolution* (Yale University Press), former FCC chairman Hundt recounts important conversations he had with Turner Broadcasting System, Inc., chairman and president (at the time) Ted Turner; QVC Network, Inc., chairman Barry Diller; TCI chairman John Malone; DreamWorks executive Steven Spielberg; and Disney vice president (at the time) Michael Ovitz.

Hundt candidly describes the atmosphere of influence-peddling at his agency: "I learned quickly that the volume of lobbying defined the major issues before the agency . . . . A single company might send soldiers from its regiments to the commission as many as 100 times, visit or phone the chairman on a dozen occasions, call some member of the chairman's staff perhaps daily. Congressional staffers made tens of thousands of telephone calls to the commission staff. Congressmen wrote letters on behalf of different parties, up to 5,000 or more a year. Sometimes, when the members wanted a particular result they phoned the commissioners to solicit votes as they might call each other on the Hill. Smart and well-financed lobbyists also ran media strategies to persuade the commission to write rules in their favor. Industries might spend millions of dollars on television advertising to influence a handful of commissioners."

The nature of the media's political power remains fascinating to Hundt. "The media industry does not mobilize great numbers of voters and it actually is not comprised of America's largest, economically most important companies . . . ." The media's significance and political clout, he argues, come "from its near ubiquitous, pervasive power to completely alter the beliefs of every American." Members of Congress and presidential candidates, he believes, are afraid to take on the news media directly for fear that they will simply "disappear" from the TV or radio airwaves and print news columns.

THE BIG ISSUES

These have been spectacular times for media corporations, and the task of their Washington lobbyists is to keep the party going for as long as possible. The past decade has seen stunning annual revenues and unprecedented corporate concentration. No reasonable person would accuse the FCC of overzealous enforcement of the antitrust laws. In 1992, for the first time in twenty-two years, the FCC allowed network-cable TV cross ownership, allowing a single company to own such outlets in the same market (TV and newspaper ownership in the same market is a violation of cross-ownership rules.)

The FCC, Justice, and Congress have allowed media companies to mate like rabbits

And the FCC, the Justice Department and the Congress generally have allowed media companies to mate and merge like rabbits. To name just a few, we have watched Time Warner merge with Turner Broadcasting, and Disney merge with Capital Cities/ABC, and News Corporation acquire Heritage Media, and AT&T merge with TCI, and CBS buy King World, and Viacom buy CBS, and Tribune Co. buy Times Mirror, and Time Warner and America Online announce the mother of all mergers — a $350 billion deal to create the "world's first fully integrated media and communications company."

Today, 98 percent of Americans live in communities with only one local newspaper. The same percentage of citizens is served by a single cable provider. Some fifty cable channels are available in at least 40 million American homes, and three companies — Disney, Time Warner, and Viacom — own all or part of twenty-eight of them. Not far behind is General Electric, which owns NBC, CNBC, and shares joint ownership of MSNBC, A&E, the History Channel, and PAX-TV, a family-oriented cable channel.

In this marketplace milieu, media corporations press for further advantage in Washington. In the current Congress, more than sixty bills aimed at the broadcasters, networks, cable operators, and satellite operators — as well as at the FCC that regulates them — were proposed in the House and Senate. And that number doesn't include the tax, trade, labor, and non-binding resolutions that draw the industry's attention.

Below are some of the industry's legislative concerns:

INTELLECTUAL PROPERTY — Media companies spend tens of billions of dollars each year securing the right to content — whether it's paying reporters' salary while they get the story or buying the rights to a free-lance magazine piece, or the rights to air a *Seinfeld* episode or *Jurassic Park*. They spend millions more on lobbyists who seek legislation designed to protect their investment in such properties, a major concern to media firms, especially as the Internet grows in sophistication.

VIOLENCE — Lobbyists for the media industry have consistently raised First Amendment freedoms as a carte blanche protection against any regulation of violent content broadcast over the airwaves. The current system that rates violence in programs was agreed to voluntarily by broadcasters only after Senator McCain threatened to have the FCC block station license renewals for those broadcasters who refused to participate.

THE SATELLITE HOME VIEWER IMPROVEMENT ACT — Signed into law by President Clinton last November, this permits satellite broadcasters to offer local signals to subscribers. Cable companies, who railed against the "must carry" provisions that require them to provide customers with all local broadcast channels, were only too happy to see their satellite competitors saddled with the same burden.

MEDIA OWNERSHIP — Under current FCC rules, a single company is permitted to reach only 35 percent of the national audience through the stations it directly owns, preventing a handful of companies from owning all of the television stations in the country. With the CBS deal, Viacom went over the cap. To meet regulatory muster, Viacom will have to sell off some of its stations by May 2001. Within a week of the merger's announcement, Senate Commerce chairman McCain introduced a bill that would help Viacom skirt that requirement, raising the audience cap to 50 percent of the national audience. As noted in the Center for Public Integrity's book, *The Buying of the President 2000*, Viacom was McCain's fourth most generous "career patron."

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LOBBYING

WHAT THE MEDIA WANT: TOP TEN LOBBYIST ISSUES SINCE 1996

1 Intellectual property: 556 lobby registrations*
2 Violent programming restrictions: 469
3 Satellite systems: 287
4 Tax issues: 272
5 Telecommunications: 272
6 Political ads/campaign finance: 220
7 Cable issues: 192
8 Tobacco/alcohol advertising: 178
9 Antitrust/ownership issues: 170
10 Broadband/spectrum issues: 105

LOBBYING FEES PAID BY MEDIA COMPANIES SINCE 1996

1996	$24,835,961
1997	26,600,229
1998	28,493,371
1999	31,408,965
TOTAL	**$111,338,526**

THEN AND NOW: MEDIA LOBBYISTS IN 1996 AND 1999

YEAR	LOBBYISTS REGISTERED	FEES COLLECTED
1996	234 lobbyists	$24,835,961
1999	284 lobbyists	$31,408,965

[Rate of increase: 26.4%]

TOP TEN MEDIA LOBBYING SPENDERS IN 1996 AND 1999

1996		1999	
National Assoc. of Broadcasters	$5,280,000	National Assoc. of Broadcasters	$5,320,000
Time Warner	4,530,000	National Cable Television Assoc.	4,130,000
National Cable TV Assoc.	3,463,054	Time Warner	4,060,000
Newspaper Assoc. of America	2,110,631	Disney World Services	3,300,000
Cox	1,800,000	Comcast	3,240,000
Disney	1,680,000	Assn. of American Publishers	1,600,000
CBS	1,592,837	Newspaper Assoc. of America	1,556,000
News Corp	1,079,632	News Corp	1,510,000
ABC	570,000	Viacom	1,380,000
Gannett	520,000	CBS	1,300,000
TOTAL	**$22,626,154**	**TOTAL**	**$27,396,000**

TOP TEN MEDIA ORGANIZATIONS BY LOBBYING COSTS SINCE 1996**

1 National Assoc. Of Broadcasters, $16.92 million
2 Time Warner Turner, $15.77 million
3 National Cable Television Assoc., $13.68 million
4 Walt Disney, $11 million
5 Viacom/CBS, $9.29 million
6 News Corp./Fox/AskyB, $7.48 million
7 Newspaper Assoc. Of America, $6.51 million
8 Cox Enterprises, $4.61 million
9 Comcast Corp., $4.12 million
10 Assoc. Of American Publishers, $3.12 million

* —*Lobbyists register with the Clerk of the House of Representatives, and must list specific bills that they are paid to try to influence*
** —*Includes in-house lobbying operations and trade groups*

NBC would also benefit from McCain's bill to lift the ownership cap. NBC acquired a 32 percent stake in Paxson Communications, the Florida-based broadcaster (whose interests McCain has promoted, in a letter to the FCC demanding action on one of the company's pending license requests. The letter was written just a day after the senator flew on the company's corporate jet). NBC has an option to purchase a controlling interest in Paxson by February 1, 2002, "if FCC rules then permit," the company's parent, GE, announced in documents filed with the SEC. Should McCain's bill pass, NBC won't face any FCC hurdles exercising its option.

REPEAL OF ESTATE TAXES — Last July, the Senate joined the House in passing legislation to repeal estate taxes. The measure was strongly supported by some well-known family-owned publishers. Copley Newspapers, Cox Enterprises, and Morris Communications have paid a lobbyist $950,000 since 1996 to fight for the end of the "death tax." In June the *San Diego Union-Tribune*, a Copley newspaper, published an editorial entitled, "The Death Tax: Repeal the Most Unfair of All Federal Levies": "House Republicans and Democrats were right to pass legislation that phases out the death tax not only on family farms, but on all family-owned businesses and other assets." Not mentioned was the direct financial interest of the Copley family in the legislation, and attendant lobbying efforts in that regard. "We are contributors to a fund that is trying to eliminate the estate tax," Hal Fuson, Copley's chief counsel, told us. "There was nothing particularly surreptitious about it."

CAMPAIGN FINANCE REFORM

Still, no single recent media issue more poignantly portrays the clash between public and private interest than the debate over free air-time for political candidates. In early 1998, before the



JUNKETS



No Congressman traveled more frequently on the media industry's nickel than Louisiana's Billy Tauzin

1997-2000 SPONSORS OF TRIPS

	SPONSOR	TOTAL COST OF TRIPS
1	News Corp	$68,175
2	National Assn. of Broadcasters	56,212
3	National Cable Television Assn.	48,168
4	Media One	41,159
5	Walt Disney	33,868
6	NBC	26,929
7	World College of Journalism & Communication	18,700
8	Assn. of Local Television Stations	18,490
9	Instinet	15,260
10	Discovery Channel Foundation	13,900

1997-2000 CONGRESSMEN AND STAFF TRIPS

1	W.J. "Billy" Tauzin (42)	$77,389
2	Thomas J. Bliley (19)	18,110
3	Elizabeth Furse (3)	14,710
4	Orrin G. Hatch (12)	12,846
5	John Conyers Jr. (12)	12,616
6	Michael G. Oxley (7)	12,488
7	John F. Kerry (3)	11,340
8	J. Dennis Hastert (6)	10,540
9	Henry J. Hyde (9)	10,134
10	John M. Shimkus (6)	9,332

president and FCC chairman made their rule-making move, the broadcast networks, ABC, CBS, and NBC, were already targets of criticism. They were excoriated for reaping, potentially, billions of dollars in 1997 when Congress gave them — free — the government-owned digital spectrum, to use for the next generation of technology. There was a rising public clamor around the question, Do broadcasters have public-interest obligations anymore?

Against this backdrop, television stations and networks separately have been making a financial killing from political advertising. According to data collected by a firm called Competitive Media Reporting, local and national TV political advertising will earn broadcasters $600 million this year. In fact, income from political ads has been steadily rising for twenty years — from $90,570,000 in 1980 to $498,890,600 in 1998. In the first four months of this year, TV stations in the top seventy-five media markets took in $114 million for 151,000 commercials from the candidates alone.

At the same time, around the nation, news coverage of political candidates is getting minuscule. For example, the Annenberg School of Communication at the University of Southern California discovered that in the final three months of the 1998 California governor's race, local TV news on the subject comprised less than one-third of one percent of possible news time. In 1974, the amount of gubernatorial coverage in California was ten times greater. Another USC Annenberg finding: sixteen of the nineteen top-rated TV stations in the top eleven markets broadcast, on average, only thirty-nine seconds a night (from 5 P.M. to 11:30 P.M.) about political campaigns. Top stations in Philadelphia and Tampa averaged six seconds a night.

As Robert McChesney, a University of Illinois professor, wrote in *Rich Media, Poor Democracy*, "Broadcasters have little incentive to cover candidates, because it is in their interest to force them to purchase time to publicize their campaigns."

Recent research seems to bear this out. For example, in the New Jersey Senate primary, in which Jon Corzine spent more of his own money than any Senate candidate in U.S. history, local television stations in New York and Philadelphia made $21 million from political ads. In the last two weeks of the campaign, citizens watching top Philadelphia and New York TV stations were ten times more likely to see a campaign ad than a campaign news story.

Broadcasters, says Paul Taylor, founder and executive director of Alliance for Better Campaigns, "are profiteering from democracy." Since 1998, his group, co-chaired by former presidents Jimmy Carter and Gerald Ford and the former CBS News anchor, Walter Cronkite, has been calling for the networks and 1,600 TV stations to give at least five minutes of political news coverage a day during the last month before the 2000 election. So far, only two percent of the broadcasters have agreed.

The free air-time reform idea is not altogether dead. The FCC still seems to hold some interest, as do a few members of Congress, who have included proposals requiring broadcasters to provide free air time to political candidates in campaign-finance reform measures in the current congress. But industry lobbyists do not give an inch on any of them. In formal comments before the agency in March, the NAB said it "respectfully submits that there is no lack of political news and information available for persons who have any interest in obtaining such information. Thus, a voluntary or mandatory requirement for broadcasters to offer additional free time for political candidates is unnecessary." The Radio and Television News Directors Association (RTNDA) stated, "Proponents of mandatory air time for political candidates would prefer that the FCC ignore altogether the First Amendment rights of broadcasters. They would have the commission turn its back on political coverage decisions made by experienced, professional journalists."

Meanwhile, some newspaper editorials about the free-air-time proposal have been curiously consistent with the

extent of their ownership of broadcasting properties. The *Los Angeles Times*, with no TV stations, wrote supportively of the initiative. The *Chicago Tribune*, owned by the Tribune Co., which recently purchased the *Los Angeles Times* and Times Mirror and also contributes to political candidates and parties and owns nineteen TV stations, saw the issue differently. It wrote in 1998, "It might be good if candidates didn't have to raise and spend so much money to finance broadcast ads. In that case, let Congress provide public funds to subsidize campaigns. If the public stands to gain from improved candidate access to the airwaves, the public ought to bear the cost." In other words, let the citizens pay for the ads they increasingly must watch.

The dirty little secret is that from 1996 through 1998, the NAB and five media outlets — ABC, CBS, A.H. Belo, Meredith Corp., and Cox Enterprises — cumulatively spent nearly $11 million to defeat a dozen campaign finance bills mandating free air time for political candidates. One company lobbyist willing to talk to us was Jerry Hadenfeldt, who represents the Meredith Corporation, owner of a dozen TV stations and twenty magazines, and publisher of more than 300 books. "Free political ads are basically picking the pockets of a select group, namely television broadcasters," he says. "They [candidates] already get the lowest available rates, and that's the way we believe it should stay."

One of the free-air-time bills he opposed was introduced by Congresswoman Louise Slaughter, a New York Democrat. She apparently did not realize the extent of the industry maneuverings against her. Told that $11 million had been spent lobbying against her bill and others like it, she was taken aback. "Oh, good Lord," she said. "It seems excessive to me. I am absolutely astonished. They paid $11 million to kill it? Well, it sure worked, didn't it?" ■

Charles Lewis, a former producer for 60 Minutes, *is the executive director of the Center for Public Integrity in Washington.* *Bill Allison, Erin Gallavan, Shannon Rebholz, Helen Sanderson, and Derrick Wetherell of the Center contributed to this article. The Joyce Foundation and the Town Creek Foundation provided project support.*

The Center's complete investigative report on media lobbying can be found at www.publicintegrity.org.

SOURCES AND METHODOLOGY

Sources and methodology: The source for campaign contributions is the Center for Responsive Politics, which provided data from 1993 through June 30, 2000 on individual, PAC, and soft money contributions from broadcasting, publishing, cable, Internet, and entertainment companies and their employees. Erring on the side of caution, we did not include contributions from some of the parents of media firms that had other interests on Capitol Hill.

Data on lobbyists and trips came from the Clerk's Office of the House of Representatives, the Office of the Secretary of the Senate, and the Office of Government Ethics. We limited our search of trip reports and lobby registrations to companies with revenues over $500 million, of which more than half were attributable to publishing, broadcasting, cable, or Internet service provision. We also included trade groups representing the interests of these industries in our search.

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CAMPAIGN 2000

ANDREW KOHUT

Getting Voters to Engage



Andrew Kohut, director of the Pew Research Center for the People & the Press, writes regularly for CJR about public attitudes toward the media.

BY ANDREW KOHUT

Journalists and news executives have every reason to be jittery about the diminishing audience for campaign news. Compared to 1996 and 1992, fewer Americans have been following election news, a smaller number of potential voters have given much thought to the contest, and an increasing percentage say they are less interested in politics, according to nationwide surveys by the Pew Research Center.

To make matters worse, the Summer Olympics may further dilute and divert the public's interest in politics. The Sydney Games are scheduled later than usual and will be broadcast in what should be prime time for election news — from Sept. 15 to October 1. Here are some recommendations in the uphill battle to engage audiences for election news, based upon the trends that we have observed so far:

Emphasize the stakes. The public's feelings about Al Gore and George W. Bush, combined with the nature of these contented times, are leading many to doubt the significance of the coming presidential election. Nearly one in three registered voters (30 percent) say it does not make much difference who wins the presidency, up from 18 percent in Center surveys conducted in 1992 and 1996. And nearly half of voters believe that "things will pretty much be the same for them" no matter who is elected.

To much of the public, the candidates are virtually indistinguishable. Many Americans say that either candidate would be qualified to serve as president. Fully one-third say Bush and Gore take similar positions on issues — a larger percentage than felt that way when the campaign began in earnest a year ago (33 percent vs. 24 percent). A small appetite for change is also at work here. A slim plurality (47 percent) think the next president should make major policy changes to solve problems. But nearly as many (41 percent) favor staying the course, even if we make no further progress in certain areas.

Try even harder with younger voters — and their parents. Americans of all ages are less interested in the current presidential campaign, but the decline is more precipitous among voters under fifty years of age. Only about half of those in this age group are paying close attention to news about this year's presidential campaign, compared to nearly two-thirds of those age fifty and older. The generation gap in attentiveness was not so sharp four years ago. The reason for this may be that many more of those in Generations X and Y — as well as younger baby boomers — have greater doubts about the importance of the presidency than do older Americans.

DWINDLING VOTER INTEREST

	1992	1996	2000
Follow election news...	%	%	%
Very closely	20	22	23
Fairly closely	45	40	32
Not too closely at all	35	37	44
Interest in politics this year...			
More	55	42	38
Less	24	38	38
Same	19	19	22
Thought given to election...+			
Quite a lot	63	55	46
Some/Only a little	35	44	49
Registered to vote...			
Yes	73	75	75
No	26	25	25

+ Based on registered voters.

Take voters at their word about the importance of issues. News organizations would be wise to emphasize issues because, clearly, these candidates will not electrify audiences. The conventional wisdom holds that voters only say they want to hear about issues, when in reality serious policy debates bore them. While there may be some truth to this, a good debate about one or two issues may be the only way get more voters feeling that the stakes are important and there is a real choice between the candidates. Education, health care, entitlements, taxes, gun control, and the use of force abroad all have the potential to engage certain groups of voters.

Don't go too far in reporting on candidates' personal lives, but cover what's important. While voters remain very gunshy about revelations of the private lives of candidates, 84 percent say it is very important to know about candidates' reputation for honesty, and 67 percent say the same about understanding their abilities to connect with ordinary people. The trick is to probe into these matters without turning off voters by seeming to be snooping or going for the jugular.

Lay off coverage of strategy and tactics, which bore the marginal audience. Many voters say they want less reporting of campaign strategy (47 percent), and less news about which candidate is ahead in the polls (42 percent). The inside-baseball aspects of campaigns appeal to the tried-and-true political audience, not to people with marginal interest. People with strong political interest and good voting records will be drawn to news about political maneuvering, not those who tune in only once every four years.

In the end, it may turn out there is nothing that news organizations can do to stem erosion of the political news audience — short of sending Gore and Bush to a desert island and having people vote to banish one or the other. The warning signs abound: Local and network news are cited far less often than four years ago as the leading sources of information about the campaign. Newspapers, radio, and magazines have also seen their political audience decline. Only cable news has held its own, while the Internet has grown, of course.

It is far too early to determine the causes of the electorate's waning interest in the campaign, but this year's front-loaded political campaign and the decision by broadcast networks to cut back election coverage haven't helped. And while news bosses are worried over the bottom-line implications of Americans losing the political news habit, the impact on political participation is more troubling. Judging from the early indicators in the Pew surveys of election interest, we could be headed for one of the lowest voter turnouts in history. ■

The Albany Times Union unlocked the secret of extreme isolation of inmates in New York's prison system.

Is it necessary discipline or cruel and unusual punishment? That was the central question raised by the Times Union in "Lockdown: The Hardest Time," a ground-breaking eight-page report on the use of solitary confinement in New York state prisons.



Reporter Paul Grondahl and photographer Steve Jacobs spent six months examining the growing trend of locking down prisoners in tiny cells 23 hours a day for months, even years, at a time. Every step of the way, corrections officials blocked the journalists. Access to prisoners and records was routinely denied. The Times Union team conducted interviews with inmates through clandestine correspondence and spent days traveling to the state's network of maximum security prisons.

The report served as a catalyst to educate lawmakers, many of whom said they had no idea about the extent of extreme isolation used in New York. Prison watchdog groups in New York and other states have cited the report in their quest to educate the public. Creating awareness of what's happening behind locked doors is one more way Hearst Newspapers enrich readers' lives every day.

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CAMPAIGN 2000

Gore Media Coverage —Playing Hardball

BY JANE HALL

You don't have to be a yellow-dog Democrat to wonder just what's been going on with the coverage of Al Gore ever since he declared for the presidency. The appointment of Senator Joseph Lieberman changed the pattern momentarily. But consider a few examples:

- "Add Love Canal to the list of verbal missteps by Vice President Al Gore," a *Washington Post* reporter, Ceci Connolly, wrote in a December 2 article. "The man who mistakenly claimed to have inspired the movie *Love Story* and to have invented the Internet says he didn't quite mean to say he discovered a toxic waste site when he said at a high-school forum Tuesday in New Hampshire, 'I found a little place in upstate New York called Love Canal.'"
- "Everything was humming along fine for Vice President Al Gore, until little Elián González strayed into the picture," Katharine Q. Seelye began an April 16 *New York Times* story, adding that Gore, "prompted by no one," had thrust himself into the politically charged debate after "seeming to contradict himself."
- "Gore's handlers are plotting yet another rollout of their candidate," Howard Fineman wrote in *Newsweek* and reiterated on MSNBC's *The News with Brian Williams*. "By my count we're on about the fifth or sixth Al Gore (including 'Bible Belt Al' . . . and 'Environmental Al')."

The underlying message of all of these stories was clear: Al Gore is a lying politician who will do anything to get elected — a theme happily echoed by the Bush-Cheney campaign.

Gore's motives are frequently questioned, frequently framed in the most negative light — even in the lead of straight-news stories from some of the most respected and influential news organizations. When Gore made an economic proposal for tax relief, *The Washington Post* said in the lead that Gore "muscled in on the debate" as the Republican-controlled Senate approved its multibillion-dollar tax plan; when he made a speech on the role of government during his race for the nomination against Senator Bill Bradley, the *Post*'s report began like this: "Were it not for the black cowboy boots and the Palm Pilot strapped to his belt, the man doing the talking could have been Bill Bradley."

In contrast, Bush's proposals are not only treated straight, as they should be, in straight-news stories: he's often been given the benefit of the doubt on subjects where he could be vulnerable.

A new study by the Pew Research Center and the Project for Excellence in Journalism underscores this. Examining 2,400 newspaper, TV, and Internet stories in five different weeks between February and June, researchers found that a whopping 76 percent of the coverage included one of two themes: that Gore lies and exaggerates or is marred by scandal. The most common theme about Bush, the study found, is that he is a "different kind of Republican."

The survey (which included editorials and news stories) focused on *The Washington Post*, *The New York Times*, *The Boston Globe*, *The Atlanta Journal-Constitution*, *The Indianapolis Star*, the *San Francisco Chronicle*, and *The Seattle Times*. It also included the evening newscasts of the major broadcast networks and talk shows such as *Hardball*, which alone accounted for 17 percent of the negative characterizations about scandal.

THE SUBSTANCE OF WHAT GORE SAYS GETS WRAPPED IN CYNICAL LANGUAGE

My own anecdotal survey focused on more than 100 news stories in *The Washington Post*, *The New York Times*, and The Associated Press, along with other newspapers and features in *Time* and *Newsweek*. I also looked at a small sampling of cable talk shows and some network evening newscasts. Many cable talk shows were, as the Pew study found, extremely negative in their characterization of Gore. The evening newscasts on ABC, CBS, and NBC, on the other hand, appeared to play it straighter.

Over all, the Pew researchers wrote, "The press has been far more likely to convey that Bush is a different kind of Republican — 'a compassionate conservative,' a reformer, bipartisan — than to discuss Al Gore's themes of experience, knowledge, or readiness for the office."

Comparing the sourcing on stories, the Pew researchers found something that also was evident in my own research: "Journalists' assertions about Bush's character were more than twice as likely than Gore's to be unsupported by any evidence. In other words, they were pure opinion, rather than journalistic analysis."

The substance of what Gore has been saying in speeches around the country often has been wrapped in reporters' cynical language that effectively casts doubt about his motives before he even opens his mouth. *The Washington Post*'s Ceci Connolly, for example, need not have characterized Gore's statement to a group of healthcare workers — "It is in fact intolerable in the midst of unprecedented prosperity that we have so many Americans who do not have health insurance" — as "moaning." And, rather than mocking Gore for wearing a Palm Pilot and characterizing him as a Bill Bradley imitator, she could have led with the substance of what Gore said that day. That's the way numerous publications have treated George W. Bush's proposals on education, crime, and other topics. They play it straight, paraphrasing and quoting his remarks. They don't raise flags about his motives right off the bat.

Other stories have similarly signaled in the lead that Gore is a phony and political opportunist. In June, an Associated Press reporter, Sandra Sobieraj, began a story about Gore's saluting preservationists this way: "Wind mussing his hair, Vice President Al Gore sped up the Columbia River Friday in a boat named 'Can Do II,' turning the administration's designation of new national monuments into a campaign event."

One of the possible reasons for the differences on reporting on Bush and Gore is both understandable — and disturbing. After he defeated Senator John McCain

for the nomination, Bush took a page from McCain's strategy of wide-open accessibility. Frank Bruni, who is covering Bush for *The New York Times*, wrote on April 14 that Bush "not only slaps reporters' backs but also rubs the tops of their heads and, in a few instances, pinches their cheeks. It is the tactile equivalent of the nicknames he doles out to many of them and belongs to a teasing style of interpersonal relationships that undoubtedly harks back to his fraternity days."

In a front-page article in *The Washington Post* on June 15 headlined CHATTER AT 40,000 FEET: NEXT TO BUSH, A FIRST-CLASS SCHMOOZER, GORE'S IN COACH, the media reporter Howard Kurtz observed, "Bush makes the reporters feel that they each have a personal relationship with him." Noting Gore's stiff style and lack of access, with only a handful of press conferences in the previous three months, Kurtz offered a possible explanation for the way the two candidates have been covered: "Most reporters insist their daily coverage is not influenced by whether a candidate is friendly or distant. But these sharply divergent views of the presidential contenders from the rear of their campaign planes help explain why Bush is consistently portrayed as relaxed and confident and Gore as someone who often fails to connect with people."

When Bush picked his running mate, for example, *The Washington Post*, in a news-analysis piece, saw the selection of former Secretary of Defense Dick Cheney as suggesting that Bush "is confident in his campaign, his electability, and in the core Republican philosophy," not, as it could also be portrayed, as a sign of weakness, inexperience, or needing someone from his father's administration to do the heavy lifting. Again, the contrast with Gore is what stands out: Gore's detailed knowledge of public affairs is often used against him. He's described as a policy wonk and a control freak.

Even as the coverage on Bush turned somewhat more skeptical with the Republican convention, *Time* magazine, in a cover story titled "Inside the Bush Dynasty," wrote, "By every appearance, they lack the Roosevelts' intensity or the Kennedys' unembarrassed ambition. Yet they are poised to surpass them all. Theirs is the Quiet Dynasty . . . . The Bush code is not really about power; it is about winning and achieving, doing your best, better than the other guy . . . ."

Tell that to Al Gore, who has a family legacy (a distinguished southern Senator, Al Gore, Sr.) that often gets translated into: Al Gore really grew up in a fancy Washington, D.C. hotel.

To be sure, Gore has appeared to be struggling with the way he presents himself as a candidate, and he may have handed his critics ammunition with his wardrobe makeover, the hiring of the "alpha-male" expert Naomi Wolf and, more seriously, Clintonian legalisms such as "no controlling legal authority" in explaining his possible involvement in questionable fundraising. But some of the events that have become code words for Gore's exaggerations or evasions are much more complicated than those code words suggest. Bob Somerby — who runs a press-critique Web site called Dailyhowler.com — first reported several of these inconsistencies; the journalist Robert Parry also wrote about them in an article in *The Washington Monthly* this April. Examples:

■ Although Gore has been lambasted (in news articles, editorials, and talk shows) for saying he and his wife, Tipper, were the models for the characters in Erich Segal's novel *Love Story*, Segal confirmed in an interview with *The New York Times* that, as a young man at Harvard, Gore, along with the actor Tommy Lee Jones, was indeed the model for the male character. (Segal also suggested that Gore's notion that Tipper was also a model had been picked up from a reporting error in the Nashville *Tennessean*.)

■ Gore has been quoted directly — in derisive comments by Republicans as well as in news stories — as claiming that he "invented" the Internet. In fact, what he said in that interview with CNN's Wolf Blitzer was, "During my service in Congress I took the initiative in creating the Internet." He may have been self-aggrandizing. But he didn't say he invented the Internet — and, as several Internet experts said when the jokes came flying, Gore did play an important role while in Congress in developing the Internet.

■ In the Love Canal flap, *The Washington Post* and *The New York Times* both misquoted Gore as saying at a high-school appearance in New Hampshire in November, "I found a little place in upstate New York called Love Canal . . . I was the one that started it all." In fact, what Gore had said was, "That was the one that started it all." He made his remarks in the context of telling the high-school students about another high-school student, in Toone, Tennessee, who had alerted his congressional staff to problems with toxic waste. Both newspapers eventually ran corrections — but not until the damage had been done.

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Postmark deadline: October 2, 2000.
Entry fee: $100 per entry.

■ On the Elián flap, while many critics derided Gore for pandering to Cuban-Americans, his position from the start had been that the matter should be resolved in family court — and he was responding to legislation that would allow the child to stay in the U.S. while the matter was resolved.

As the Democratic convention approached there were signs that Gore's press was improving. Gore's proposals for child-care and other family-friendly proposals were treated seriously and non-ironically in *The Washington Post*, *The New York Times*, and other publications. And, in a strongly worded column after the Republican convention, the *Post*'s Richard Cohen said that George W. Bush had "lied" about several claims — including the Clinton administration's record on Social Security, his assertion (later denied by the Army) about two Army divisions being unprepared for combat, and, of course, his wildly applauded joke about Al Gore "inventing" the Internet.

Cohen wrote, "You may recoil from my use of the world 'lie.' I admit it's a bit strong — but purposely so. It's a word journalists are loathe to use, and politicians know it." Bush and Cheney, he went on, "are getting away with rhetorical murder," and the media critiquing Bush's speech "graded him for poise, for humor, for simplicity of language, and for his message. We neglected truth. Some of what Bush said wasn't true. In contrast, poor Al Gore has not been able to make a single exaggeration or the slightest fib without the hall monitors of the press issuing multiple demerits."

It's late in the game for Al Gore to be getting a fair shake from the media. But he has been getting better press since he hired a new media adviser, Mark Fabiani, and began doing more interviews.

"Gore's access has improved in the past few weeks, and he has developed more of a regular rapport with the press," says the *Post*'s Ceci Connolly. "People who have traveled with both Gore and Bush have been struck by how smart and knowledgeable Gore is, on Medicare and other topics."

If I were Al Gore, I might hear such a statement and ask the media, 'Who's changed here, me or you?' ■

Jane Hall teaches courses in politics and the media and journalism ethics in the School of Communication at American University. She is a former media reporter for the Los Angeles Times.

CAMPAIGN 2000

Looking In The Shadows

BY RUSS BAKER

In one of the more dramatic moments at the Shadow Convention in Philadelphia, dubbed a "Citizens' Intervention in American Politics," a busload of midwestern children whose mothers are among the 400,000 Americans incarcerated for nonviolent drug offenses took center stage. They moved the audience with rough poems and out-of-tune songs about growing up without mom, and were followed by speakers who argued that destroyed families come as much from the War on Drugs as from drug abuse. It worked as theater, certainly as much as anything at the even more scripted convention taking place on the stage of First Union Center a few miles away.

Like a lot of journalists I was skeptical about the Shadow Convention, a weeklong series of presentations held at the University of Pennsylvania during the Republican lovefest for George W. Bush, and again in Los Angeles as the Democrats met. The events' most visible organizer was Arianna Huffington, who once masterminded an unsuccessful U.S. Senate bid for her hapless ex-husband Michael and who has made a controversial political trek from right to left. The Shadow Convention seemed likely to attract a fringe audience of doom-mongers and naysayers, a kind of indoors street demonstration.

Was I wrong! Most everyone who made it to the Shadow Convention in Philadelphia agreed that this event — assembled and coordinated by such organizations as Common Cause, Public Campaign, Global Exchange, the religious coalition Call to Renewal, the Lindesmith Center Drug Policy Foundation, and United for a Fair Economy — aired more ideas in an

hour for fixing what ails America than the Republicans did in four days.

Both Shadow Conventions were intended as a timely commentary on what organizers see as the absence of substantive discussion at the two major conventions, and the diminution of meaningful differences between the two major parties. Speakers in Philadelphia included Jack Kemp; Jesse Jackson; John Anderson, the former independent presidential candidate; the journalist William Greider and the author Jonathan Kozol; Chris Shays, the GOP Representative and campaign-finance reform advocate; and two Clinton appointees who resigned in frustration at the administration's priorities, Labor Secretary Robert Reich and Health & Human Services Assistant Secretary Peter Edelman; not to mention groups representing seniors, people of color, small-business people, and environmentalists, among others. Many of these luminaries had their axes to grind, but the Shadow Conventions featured some circumspect and insightful social and cultural analysts. They talked about the largest wealth gap in history, the largest number of Americans in jail for nonviolent crimes, and the little-discussed fact that 12 million American children are malnourished. We heard campaign finance experts detailing successful state and local public financing initiatives designed to remove the corrupting influence of big money on the democratic process. We heard Gary Johnson, Republican Governor of New Mexico, and Tom Campbell, GOP California Senate nominee, both decry the War on Drugs as failed, costly, and painful (both see treatment as the right course).

The Annenberg School for Communication hosted the event in Philadelphia, and its dean, Kathleen Hall Jamieson, moderated a panel of smart opinion journalists that included Matthew Cooper of *Time*, Jonathan Alter of *Newsweek*, the ex-*New Yorker* writer Renata Adler, and Jacob Weisberg and Mickey Kaus of *Slate*. All expressed their disgust with the artificiality and vacuousness of the Republican convention a few miles away (although most of them were only at the Shadow Convention long enough to put in their quick appearance before returning to the GOP affair). "People should vote with their feet," said Weisberg. "I hope this is the last convention covered this way." Cooper said the coverage of the convention reflected the way that the fast track in the newsroom is often reserved for those on political, not issue, beats: "We're stuck in the unsatisfying limbo of skepticism. Solutions journalism is not seen as worthy." Alter added, "The story we don't do, the dog that doesn't bite, is often the real answer."

Well, exactly. But here was a chance to do a little something about it. Most major news organizations, including newspapers with more than fifty people on hand in Philadelphia scurrying around looking for news, did little with the Shadow Conventions. The events did get some coverage, but mostly in brief sidebars or mentions, and they were often portrayed as an amusing sideshow, a chance to focus on Huffington's personality and obtain a soundbite from Jackson or John McCain, who spoke on campaign finance reform. When several Shadow participants crashed a Trent Lott fundraising breakfast with a buxom blond symbol of excess strewing dollars in the air, television camera crews jostled to record the moment. But the daylong, in-depth investigation of campaign finance problems and proposed solutions was not seen as newsworthy.

In Philadelphia, the hometown paper, the *Inquirer*, was a refreshing exception, with stories like A NO-FRILLS LOOK AT MONEY AND POLITICS and SHADOW CONVENTIONERS UNLEASH UNFRIENDLY FIRE ON 'DRUG WAR.' Another was *The Buffalo News*. Its Washington bureau chief, Douglas Turner, explained to me how, on the heels of long debate over whether to cover the conventions at all, the paper decided to assign one of its three reporters in Philadelphia to full-time coverage of the street demonstrations and the Shadow Convention. Turner was palpably angry over the inability of journalists to deal with the corrosive effects of money in politics. "This thing has gotten away from all of us," he said. "Only the *L.A. Times* and *The New York Times* have the resources to deal with the gravity of this stuff. Reporters are angry and disgusted, but the public doesn't know."

The Shadow Conventions were made for the media, just like the big conventions. Nobody would expect news organizations to devote massive resources to them. But surely events of this seriousness, timed for a moment when the country is supposed to be discussing and examining the challenges facing it, are worthy of some exposure. Putting down the shallowness of a pre-scripted political show takes no special skill or commitment. Yet we're slow to recognize the alternatives, even when they're right across town. ■

Russ Baker is a New York writer.

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Covering Education: What's Our Grade?

EXPERT WITNESS **features top thinkers in various disciplines discussing the journalistic coverage of their world. Educator Gene Maeroff was interviewed in May by Ari L. Goldman, an assistant professor at Columbia's Graduate School of Journalism, about trends in covering education.**

■ *There are at least 1,000 education reporters in the U.S. What kind of a job are these education reporters doing?*
It's mixed. They all try pretty hard to do a good job, but there are disadvantages under which some of them are operating. One is that they are not only new to the beat but also new to journalism. You find on education, perhaps more than other beats, that it's kind of a stepping stone for beginners. So you have people learning about how to do journalism at the same time they're learning about the intricacies of this beat. And then there's the problem of turnover. A person starts getting some seasoning and understanding, some comprehension, and lo and behold the person is moved on to do something else. At some papers, unfortunately, it almost operates like a boot camp. There are others that do have a commitment to keeping people on the beat much longer.

■ *Do women tend to be education reporters more than men?*
The education beat is becoming more and more a female beat. And a female starting beat. No question about it. Also an important entry point for African-American reporters — African-American women particularly.

■ *What do you think journalists need to know most about education?*
It's really important that they have a sense of history in terms of educational issues. And that they understand the context in which things happen in education. And then of course a deepened knowledge of the issues.

■ *Can you give an example of that? Are there times we miss stories because we don't have that history and context?*
Let's say the reporter is put on the beat and finds out that the school district is investing some great sum of money in a new reading program. Well, there's a lot to know. What reading programs were being used before? How successful or unsuccessful were they? According to what measures? If it's a new reading program, is money going to be made available for professional development of the teachers who will be using that program? Because if the teachers aren't prepared then it's not going to realize its potential. What's the history of this program been elsewhere? What were the other kinds of programs that might have been considered? Is this something that's going to be "one size fits all" or is there going to be room for adapting it to the individual needs of children?

■ *I remember meeting an education reporter for a big-city tabloid who told me: The trick is never to go into a school. You do everything from the board of ed.*
Getting people into classrooms is the heart of what education reporting ought to be about. We're not saying they're going to be experts, but we think they could be very informed observers.

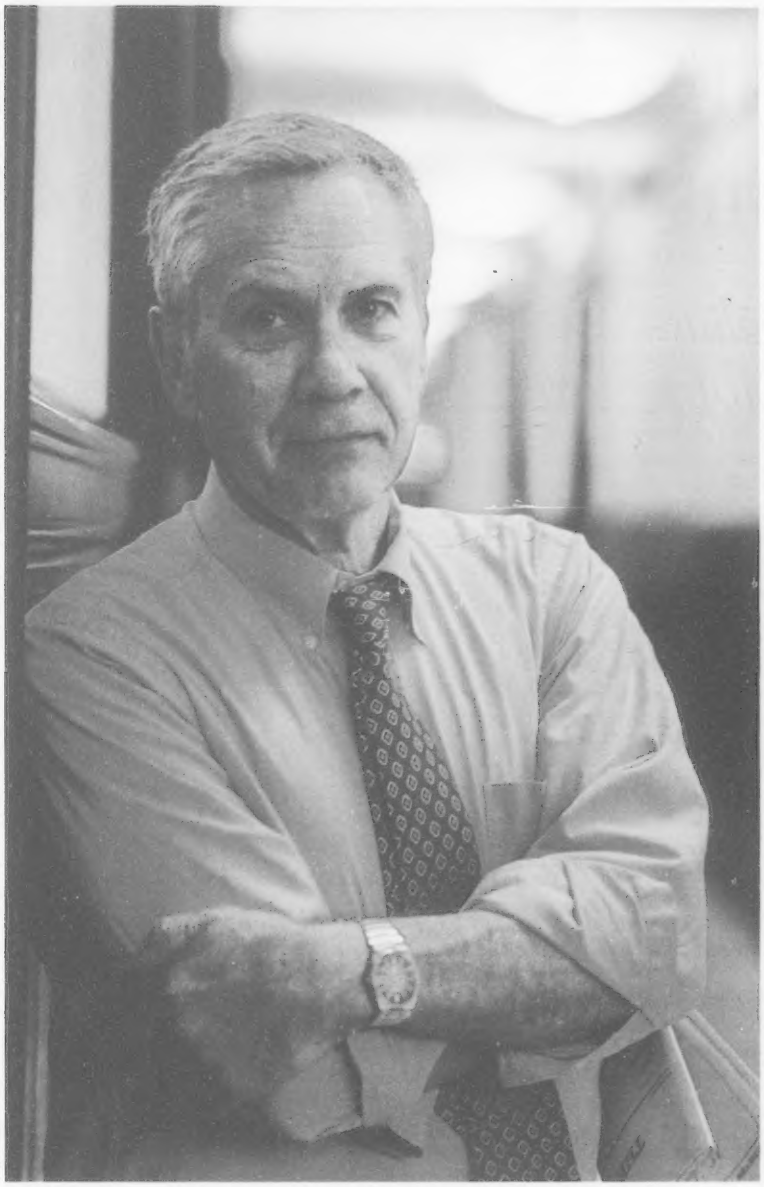
■ *Let's talk about the role of education issues in politics. Is education one of those issues you can campaign on but that are really hard to do anything about?*
Education has come to the fore in this presidential election — and elections at state and local levels as well. There's a lot more talk about it, but some of it doesn't have a whole lot of meaning. At the federal level, for example: the federal government provides only 7 percent of the revenues of elementary and secondary schools. Certainly there is a bully pulpit to be mounted and pronouncements to be made. But what a president can do about education is quite limited.

■ *The dollar impact is very small.*
It's pretty small. Seven percent of $350 billion-plus. But it certainly feeds the debate and it's important in that way.

■ *What are some of the big issues?*
Well, the voucher issue is certainly one of the hottest now — and it is fairly well polarized between Democrats and Republicans, although there are exceptions, like Joe Lieberman. George Bush would favor the federal government putting its influence and even its largess behind vouchers, Al Gore would not.

■ *Is that a state vote or a federal vote?*
Vouchers would require state action, although there could be possibly local action at the school district level. Conceivably there might be an entrance point for the federal government on it. It's not impossible. The federal government does provide money that could be made into vouchers. We have not yet had the definitive ruling by the United States Supreme Court on this in terms of the state, in terms of the religious — that is, the legal issues — that might be involved.

■ *Are any states doing vouchers now?*
There's a state-wide program in Florida. There are local programs in Cleveland and Milwaukee. In all three, courts are getting involved. And so a lot is up in the air about it. There's been a lot more *talk* about vouchers than there's been vouchers actually happening. And some people are misled by reports in the media about the number of children who are receiving vouchers but who are really on private scholarships. No different from what private scholarships have always



LEO SOREL

GENE MAEROFF is the director of the Hechinger Institute on Education and the Media at the Columbia Teachers College, which aims to deepen the knowledge of journalists regarding education issues. The institute, named in memory of Fred M. Hechinger, an education editor of *The New York Times*, publishes reports and runs seminars for education reporters, editors, and educators aimed at improving the quality and quantity of education reporting. Maeroff, a former education reporter for the *Times* and other newspapers, is the author of several books about education, including his most recent. *Altered Destinies: Making Life Better for School Children in Need* (St. Martin's Press).
(The Hechinger Institute: www.teacherscollege.edu/hechinger)

been, to enable kids to go to nonpublic schools. But the media, caught up in this whole thing today, are calling them vouchers. And that's very misleading to the public. Scholarships have existed and they will continue to exist. But vouchers involve tax money.

■ *Have the numbers been massaged by the different sides in this issue?*
Well, they just appear in the paper. Not very long ago, one respected national newspaper said 65,000 kids in the country are on vouchers. That's nonsense. Where the hell are they getting this figure? What they clearly were doing was taking all these scholarships that enable kids to choose Catholic schools or whatever, and they're calling them vouchers.

■ *So many other education issues seem to be part of a national debate as well.*
This is why it's important for education reporters to be knowledgeable. Whether you're talking about subjects — reading, math, social studies — in all of those, there are so-called right and left positions, they become polarized. Or whether you're talking about issues — social promotion, standards, high-stakes testing.

■ *Testing has gone crazy. You have fourth graders walking around New York with their noses in a book afraid to go out and play because they have to compete in the standardized test.*
It's really important for an education reporter to know what these tests are all about, to know what's being tested and about how those tests work. And how they compare with other kinds of assessments that might be used. Whether the uses of the test results are in agreement with what the test maker intended them to be used for.

■ *Teachers unions have gotten involved in the political process by endorsing candidates. How big a story are teachers unions?*
Teachers unions are a much bigger story than journalists have made them. It's an undercovered area of education. I don't mean exposés — just good stories to be written about what influence they have and what role they play in terms of determining instruction in the classroom. You'd never know from reading newspapers in this country that by and large teachers are paid no better than journalists. ■

Guess Who's Leaving the Newsrooms

Too Many Journalists of Color Don't Stick Around. Why?

BY PAMELA T. NEWKIRK

Angelo Henderson wanted to write stories that sprang from his experience. He pitched ideas that came out of his cultural milieu — his church, his movie theater, his shopping mall. But they were often given short shrift. He spent many years feeling undervalued and alienated as a reporter, and depressed. One editor went so far as to tell him he was not cut out for the business.

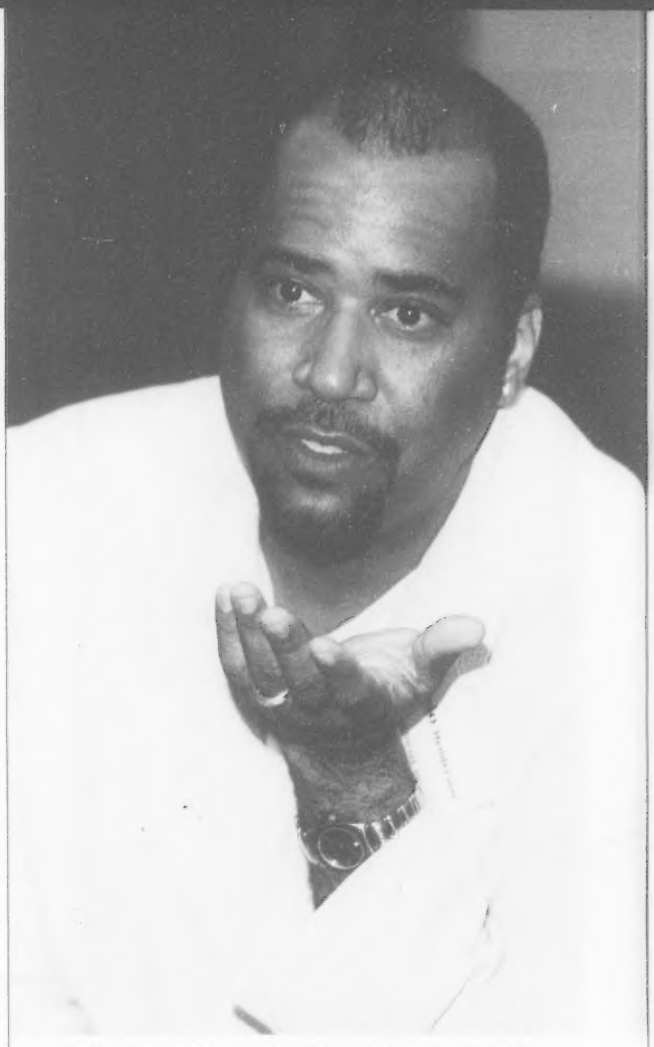
It was not until he went to *The Wall Street Journal* in 1995 that editors began to tap his reservoir of remarkable stories with enthusiasm. Henderson is African-American, and he noticed, for example, how movie theaters in his Detroit neighborhood accommodate so many young men in trendy-looking wheelchairs. That led to his discovery in 1995 that the highest growth in wheelchair use was among African-American men, because of the epidemic of violent crime.

He noticed that funeral homes in his neighborhood were handing out full-color glossy magazines about the departed, leading to a story about that cultural phenomenon. Last year Henderson won the Pulitzer Prize for feature writing, for his story on the aftermath of a robbery attempt in which a white pharmacist killed a black robbery suspect.

"You have to value my difference," Henderson told a group of journalists recently. "You can't make me what everyone is."

Henderson told his tale to a hushed room full of reporters, editors, and producers at a workshop at Columbia University this summer, an annual affair called "Let's Do It Better." The workshop both honors a handful of journalists for their quality work on stories about race and ethnicity and pairs the honorees with editors and producers who want to analyze and improve their coverage. This year's three-day event offered a window into some of what is both so encouraging and so discouraging about race and journalism at the turn of the century.

While Henderson found a way to bring his own perspective to his stories, many others do not. Their frustration is surely a contributing factor to this stark fact: journalists of color are leaving newspapers at about twice the rate of their white counterparts.



Angelo Henderson: "You can't make me what everyone is."

JOHN SOCCI

Much has been done on the racial hiring front since 1968, when the National Advisory Commission on Civil Disorders condemned the news media's lack of diversity. Yet newspaper newsrooms are still, at 88 percent, overwhelmingly white. U.S. dailies employ three and a half times as many journalists of color as they did two decades ago, but that brings the total only to 12 percent in the newsrooms. And with the nonwhite population steadily increasing, the ratio of minority employees to minorities in the total population remains unchanged.

There is another reason for that as well. A Freedom Forum study by Lawrence T. McGill — released at the American Society of Newspaper Editors convention in April and discussed at the Columbia workshop — found that an average of 550 journalists of color were added to newspaper newsrooms each year between 1994 and 1999. But each year during the same period, about 400 journalists of color went out the door.

This retention problem is not a new one. It was detected as early as 1985 in "Quiet Crisis," a survey conducted by the Institute of Journalism Education. A year later, "Musical Chairs: Minority Hiring in America's Newsrooms," also published by IJE, argued that "As much as in hiring, it is on the battleground of retention that the struggle for full parity will be won or lost."

Many journalists of color leave the news business, of course,

ON RACE, ONLINE: THE DIGITAL AFTERLIFE OF A POWERFUL SERIES

BY LAUREN JANIS

Their opinions are strong. Their comments are personal. Their reactions are thoughtful. Long treatises full of theories, statistics, and quotes alternate with intimate narratives. They are all talking about race. Yet they are doing it in a place where skin color can't be seen.

To accompany its recent series, "How Race Is Lived in America," *The New York Times* set up discussion areas on its Web site. Forums were keyed to specific stories, and, to prime the pump, kicked off with specific questions. For example, the forum for the feature about cops working in Harlem asks, "Do you think cops think about race too little or not enough?" The site also features a questionnaire that is more loosely connected to the series and which takes a more personal approach, asking questions like, "What was your most painful or uncomfortable moment having to do with race?" The Web site has given an online afterlife to the six-week series, which ran periodically from June 4 to July 16.

But can a real conversation about race take place in a faceless, raceless virtual arena? The answer seems to be yes. In early August, readers were still submitting comments steadily, revealing their thoughts and concerns about race relations. Conversations weave from affirmative action and racial violence to Jesse Jackson and James Baldwin. Topics broadly span slavery and discrimination, and then narrow in focus: one woman recalls the devastation she felt when her mother told her she could never be a Mouseketeer because of her skin color; another woman tells of the years she spent in Tanzania with her African husband, when children would touch her to see if the white would rub off. While participants speak freely and intimately, they remain hidden on the Web, known only by their user names — someone2b, buddha232, hodgepodge9 — and reachable only via virtual means.

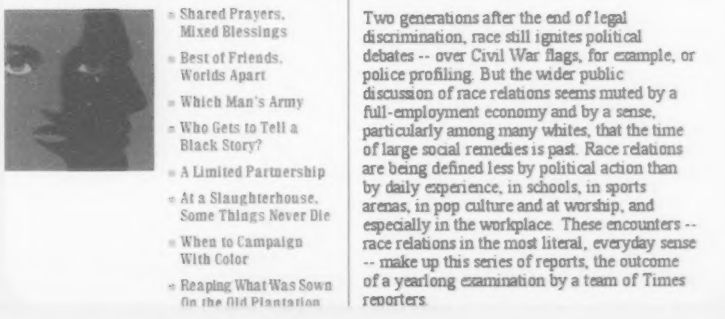
Yet most people choose not to hide. I am black, I am white, they write. Many divulge their real names and where they live. "I think the fascinating thing about the Internet is that in a situation where people can be anything they want to be, most people behave like themselves," says Jed Miller, interactive editor at *The New York Times* on the Web and manager of the race forums. And with a topic as heated as race, he says the Internet provides a uniquely welcoming space: "The consequences of speaking out on race in what I call 'real space' are sometimes very heavy, very severe. So remarkably, that which allows you anonymity increases the chances that you're going to speak in a more personal way."

Sig Gissler, a professor of journalism at Columbia University who runs workshops on journalism, race, and ethnicity, agrees. In face-to-face racial forums, Gissler notices that participants often edit themselves. "People get clutched up," he says. "The white people are afraid of being tagged as racist, and the black people don't want to be seen as whining diversity nags. So there's a mutual withholding." While Gissler warns that real progress in race relations comes only from human interaction, he sees online discussions as a good place to start. "The Internet can facilitate some candor," Gissler says. "It opens up a valuable vein of conversation and new chambers of possibility."

Miller attributes the quality of discourse about "How Race is Lived in America" to the salience and sensitivity of the subject of race. In past *Times* forums on other subjects, from Elián González to the Yankees, Miller says he has had to edit more obscenities and personal attacks from the discussion. The race forums have been unusually respectful and civil. "They seem genuinely eager to take advantage of the space," Miller says. "Not just to express themselves, but to encounter other points of view and respond to them. This is definitely another level of eloquence and articulateness."

The *Times* is not the first paper to publish a series on race, of course, or to note how the topic inspires reader feedback. Back in 1993, when the Web was still just what spiders spun, *The Times-Picayune* in New Orleans published "Together/Apart: The Myth of Race." To accompany the six-part series, the paper set up a telephone hotline to invite readers' reactions, and ended up publishing fifty pages of the phoned-in comments. Jim Amoss, editor of *The Times-Picayune*, found an unexpected forthrightness among the readers. "I was surprised by the candor and degree to which people wanted to be named and identified by race," Amoss says. "People shared their deepest well of emotion and thoughts, both moving and ugly." Amoss says he would have used the Internet to keep the conversation going if it had existed then. "Talking will not solve the problem," he says. "But it's a necessary first step."

Lauren Janis is an assistant editor at CJR.





JOHN SMOCK

At the Columbia workshop on covering race: Emiko Omori, a documentary maker; Lonnae O'Neal Parker, a *Washington Post* writer; and Sheila Stainback, an anchor for Court TV.

for the same reasons that white journalists do: they get burned out or want more money; they come to the realization that their interests have changed or that their talents lie elsewhere.

Yet there are also differences between the races in the reasons people cite when they leave the business. McGill's study, "Newsroom Diversity: Meeting the Challenge," provides some clues as to what those differences are. Where 39 percent of white journalists cited lack of advancement opportunities as a major reason to consider leaving, 63 percent of African Americans, 60 percent of Asians, and 58 percent of Latino journalists did so.

And where 35 percent of white journalists pointed to the inability to cover stories that interest them as a reason to leave, 60 percent of Latino, 54 percent of Asian, and 42 percent of black journalists said that might cause them to leave the field.

There is another revealing clue in the study: while just 39 percent of white journalists said "the desire to make an impact" had been "very influential" in their decision to become newspaper journalists, 67 percent of journalists of color did.

Meanwhile, nearly half of black journalists, 42 percent of Hispanics, and 34 percent of Asians expressed some preference for covering stories affecting people of color.

Keith Woods, an African-American journalist, left his job as a columnist and editorial-page writer at *The Times-Picayune* in New Orleans in 1995 to join the Poynter Institute as a diversity trainer. Woods explains that while he was fulfilled at the *Times-Picayune*, he felt he could make more of a difference at Poynter. "I think journalism feeds the spiritual self no matter what the race of the journalist," he says. But he adds that for journalists of color, that kind of satisfaction often comes in the form of "the feeling that they can make a difference in the way their world — their very specific world — is being run.

"I think the things that we struggle for and against are about trying to see to it that we and our families and loved ones can continue to live free and unencumbered by racism," he says. "I don't think of it as a hang-up, but a vocation."

On the other hand, some journalists work to escape what they see as racial pigeonholing. E.R. Shipp, a Pulitzer Prize-winning columnist for the New York *Daily News*, on leave to serve as ombudsman for *The Washington Post*, did this while she was at *The New York Times*. She now thinks that she was censoring herself, she explains in a recent book of essays (*The Business of Journalism*/The New Press). But at that time, she did not want to be seen as a diversity hire. So "I would not volunteer to do black stories, stories about Harlem and Bed Stuy, about gangs and dysfunctional families, about long hot summers to be." She did not want, Shipp writes, to be "stuck in the job of urban affairs reporter or race relations reporter."

Two years ago, the American Society of Newspaper Editors retreated from its goal of reaching a racial balance in newsrooms that matches that of the population by 2000. The nation is now 28 percent nonwhite. ASNE gave itself another twenty-five years — until 2025 — to achieve its goal, after it had become clear that the industry would fall far short.

In television, meanwhile, the U.S. Court of Appeals in the District of Columbia put an end to the Federal Communications Commission's affirmative action policies in 1998. Those policies had effectively doubled the percentage of minority group members in broadcasting between 1969 and 1998 and helped television's minority percentages climb well past the newspaper industry's. Where people of color held 11.85 percent of newspaper jobs, last year the percentage of minorities in television news reached an all-time high of 21 percent, according to the year 2000 annual survey by the Radio-Television News Directors Association and Ball State University.

Numbers are not the whole story, nor is statistical diversity the same as diversity of coverage. "I know black editors who know less about Harlem than many white folks do and could not care less about how, or whether, it is covered," Shipp writes.

To hear the June workshop participants tell it, achieving true diversity of coverage requires working through a challenging series of racial puzzles. How, many of the white managers at the workshop wondered aloud, do you confront black or Latino reporters about disagreements over stories on race? How relevant is the race of the reporter on racial stories? Some of the managers admitted they were intimidated by the apparent anger of some of their minority reporters. Rather than challenge them, many admitted to simply retreating in silence, which insures that conflicts go unresolved. "My anger won't hurt you," Lonnae O'Neal Parker, a *Washington Post* feature writer who is African-American, said at one point in the discussion. "You'll be fine when the exchange is over."

And some journalists of color, in turn, don't voice their frustrations. Unlike Angelo Henderson, Arthur S. Hayes, who now teaches journalism at Quinnipiac University in Connecticut, says he found himself pushed to "think like a middle-class white man" during his stint at *The Wall Street Journal*. Hayes once wrote a page-one piece about what has been called the Bronx Jury Syndrome, in which juries in urban settings tend to lean toward defendants in criminal cases. Hayes, who is African-American, thought that these juries had a certain sophistication about the way cops testify in cases in the ghetto. But the story

was "flipped," he says, rewritten from a perspective that wondered "why these juries don't get it.

"You go along with it. You don't want to get tagged as uncooperative," he says. "So you start writing that way and thinking that way." But then, he says, you begin to feel that you are betraying something. "You get into this business because you want to speak the truth, and you know you are not speaking the truth. You eventually think, 'I don't want to be with this paper.' "

A number of the editors at the conference vowed to do more to crack these puzzles of race and ethnicity. It's one thing to have journalists of color in the newsroom and quite another to welcome the diversity of ideas that they bring.

"There's a lack of trust," conceded Charlotte Hall, a vice president and a managing editor at *Newsday* on Long Island who is white. "It's been a lonely path for people. It's the trust-building that needs to go on." Rosemary Goudreau, managing editor of the *Cincinnati Enquirer*, and also white, was sobered by Angelo Henderson's story: "I see Angelo, who was told he's not cut out for this business," she said. "I've heard this said about a young lady in my newsroom." She said she would reach out to her.

Throughout the weekend, meanwhile, the journalists at the conference bore witness to many examples of excellence in reporting, stories written and produced by participants whose work was being honored. There was a five-part series on race relations and social change in the Silicon Valley by *The San Jose Mercury News*. There was O'Neal Parker's searching look at race through the lens of her relationship with her white cousin, published in *The Washington Post*. And there was a *20/20* feature on young blacks who underachieve so as not to appear to "act white."

At one event during the three-day workshop, CBS news anchor Dan Rather and CBS News president Andrew Heyward were honored for their general excellence in racial coverage. This included a moving — and, at thirteen minutes, remarkably lengthy — segment that Rather anchored on the 1998 racial killing in Jaspar, Texas.

But after the piece was shown, Rather and Heyward were grilled about the paucity of minority journalists assigned to the story. How, someone in the audience asked, could a story of such magnitude virtually exclude black reporters?

Heyward shot back: Why did you need black reporters? Could not white reporters tell that story, which was as much about whites as blacks? Rather pledged to take greater personal responsibility for diversity at CBS. Sidmel Estes-Sumpter, executive producer of *Good Day Atlanta* at Fox's WAGA-TV, countered: "A lot of us are tired of hearing that after twenty, twenty-five years in the business. Where is the proof in the pudding?"

The question hung there, nearly overshadowing Rather's superb newscast. For just a moment, at least, isolated excellence did not seem to be enough to repair the tattered good will between the industry and the people of color within it. ■

Pamela Newkirk is the author of Within the Veil: Black Journalists, White Media, *published in August. A former reporter for the* New York Post *and* New York Newsday, *she teaches at New York University. (More about the Columbia workshop on covering race and ethnicity, including the print and television stories that were honored, is at www.jrn.columbia.edu/workshops).*

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THE LAWYERS

How They Can Help Us, How They Can Hurt Us

BY NEIL HICKEY

Journalists and lawyers. Siblings under the skin. A symbiosis that's often uneasy but essential to a free press. Journalists vex in the normal course of their work. Rich and powerful corporations demand redress. Average citizens want justice for offense to their reputations. Judges, juries, and gladiatorial media lawyers vigorously test the boundaries of where collecting and disseminating the news becomes lawbreaking. Ever since Andrew Hamilton successfully defended the printer John Peter Zenger in 1735 for accusing New York's royal governor of corruption and incompetence, lawyers for the press and their adversaries have been battling to define the size of the clearing in the woods where journalists can confidently operate. "The Question before the Court, and you, Gentlemen of the Jury," Hamilton declared, "is not of small nor private Concern, it is not the Cause of a poor Printer . . . . It is the best Cause. It is the Cause of Liberty."

Now more than ever, lawyers are becoming part of the editorial process. Attorneys for plaintiffs increasingly are claiming that journalists too often break the law while collecting the news. More cases are going to trial. Juries are returning big verdicts against news organizations. Courts are showing a general hostility to the press, reflecting the public's low esteem of the profession. Some big anti-media law firms work hard to derail investigative pieces before they're published or broadcast, and then conduct p.r. campaigns to discredit them afterwards. The cost of litigation is making media lawyers more cautious than they used to be. Says a veteran newsman: "These days, you need lawyers who are better than ever."



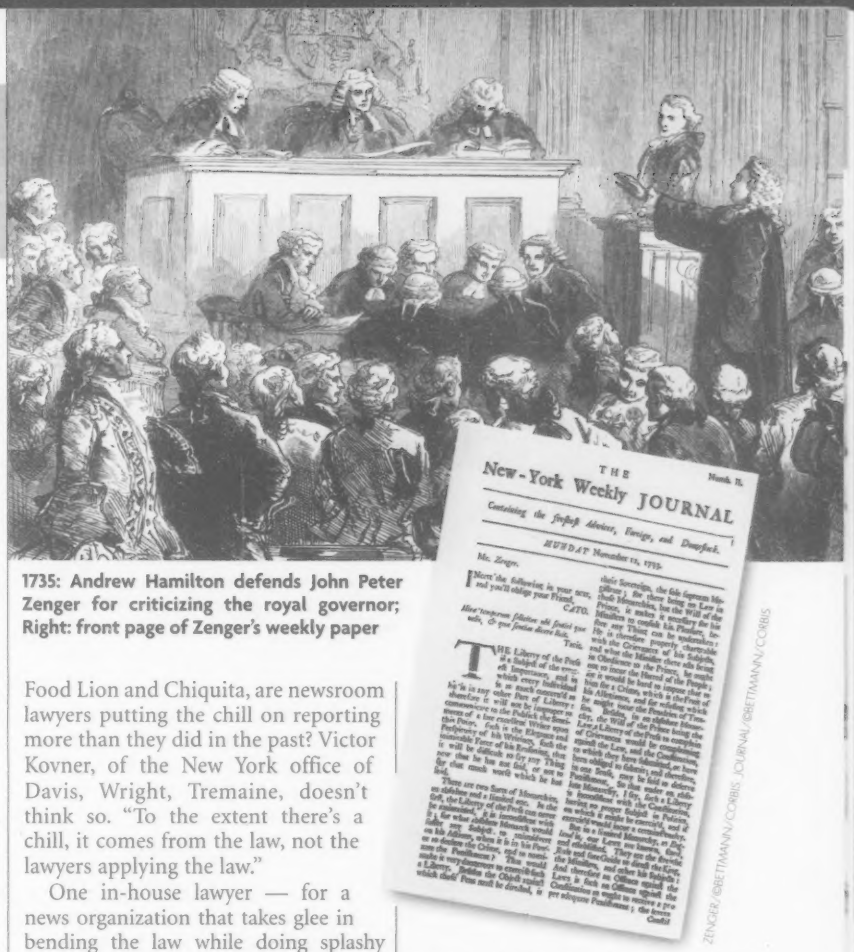
ILLUSTRATION/MOFFETT CECIL LIBERTY/GRETTMANN/CORBIS

Lawyers in the lives of journalists, says Reuven Frank, former president of NBC News, are "unfortunately necessary." Not a necessary evil; just plain necessary. Are they wet blankets on aggressive journalism? Are they sometimes too cautious in turning thumbs down on hot stories, thereby smothering enterprising reporting? In megacorporations that own news organizations, are they more concerned with shareholder value than with their journalists' desire to tell the whole truth?

Some are. Others share the journalists' DNA and are eager to push the envelope's insides and challenge the limits of the law on how news gets covered.

Over the last few months, CJR has talked to dozens of media lawyers and journalists about how the two professions relate in the newsroom's daily life; and about how lawyers can help journalists and where they can hurt them. Unpredictably, we found newspeople almost unanimously sanguine about their dealings with attorneys — both in-house and outside counsel — who cast a flinty, critical gaze at news stories before the public sees them. "If you've got an attorney who's stuck in the law and doesn't care a lot about the news, you've got a problem," says Mike McGraw, a *Kansas City Star* reporter. "But one who enjoys working with newspapers, who enjoys watching news get broken, can be a big advantage. After spending many hours with counsel, I realized I can learn a whole lot by listening to them."

Media law is a landscape of shifting sands and moving targets. The body of



1735: Andrew Hamilton defends John Peter Zenger for criticizing the royal governor; Right: front page of Zenger's weekly paper

case law is immense, ambiguous, and sometimes contradictory; guaranteed, risk-free guidance from lawyers is hard to come by. Journalists are suffering through a period when the public's opinion of the profession is at an all-time low, and when judges and juries are angered about media methods of news-gathering that sometimes include trespass, misrepresentation, and fraud.

In this issue of CJR, we offer a package of articles examining the important legal issues that newsrooms currently are dealing with: alleged lawbreaking by newsgatherers, along with libel, subpoenas, and the Internet. We take a look at lawyers who spend their careers defending the press and others whose specialty is representing corporations and individuals who claim they've been wronged.

Most journalists, over the course of a career, will spend time with lawyers — some friendly, some acting for aggrieved plaintiffs. "The best news stories are going to upset people," says Brant Houston, executive director of Investigative Reporters and Editors (IRE), who earlier spent nine years at the *Hartford Courant* and four at *The Kansas City Star*. "Investigative reporting lives on the edge. You know upfront there will be complaints about a hard-hitting story." The lawyer's job is to make the legal perils perfectly clear and then let the editors decide. "The worst case," Houston says, "is where you have a lawyer who's not really a writer or editor trying to edit the story."

Newsroom lawyers are painfully aware of the potential minefields that face them in counseling journalists. Richard M. Schmidt, Jr., who has represented the American Society of Newspaper Editors for thirty-one years, understands how a reporter can balk when sternly challenged on a story nearing publication. "The journalist has worked long and hard and the lawyer comes along and says, look, you haven't proved these facts." It's not the lawyer's job to turn thumbs down, Schmidt insists. "I say, 'Here's the weakness of your case, and here are the problems you'll face if you go ahead with the story.'"

In the wake of bombshell cases like Food Lion and Chiquita, are newsroom lawyers putting the chill on reporting more than they did in the past? Victor Kovner, of the New York office of Davis, Wright, Tremaine, doesn't think so. "To the extent there's a chill, it comes from the law, not the lawyers applying the law."

One in-house lawyer — for a news organization that takes glee in bending the law while doing splashy undercover stories — says that dealing with those staffers is like giving sex instruction in a classroom: "You advise them not to do it, but you know they will anyway. So you tell them how to get the most protection."

One big magnet for lawsuits is the many TV newsmagazines in prime time schedules — especially *60 Minutes*, *20/20*, and *Dateline NBC* — each of which regularly offers mini morality plays pitting victimizers against victims, and allowing the vindicators (the TV folk) to ride to the rescue and grandly expose injustice. The alleged victimizers sometimes sue. *20/20*'s boss, Victor Neufeld, told a recent IRE convention: "The legal climate is very tense. Juries and judges in the last few years have felt that the media have gotten too aggressive, too much involved in people's private lives." Jurors, listening to invasion of privacy tales in court, murmur to themselves, "That could be me," and penalize the reporters. Television stations and networks most often attract the fire of litigants during sweeps periods when they air ratings-building investigations of eye-catching malefactions. Unlike print media, TV and radio stations risk losing their licenses over clumsy reporting; sensitive to that risk, their lawyers apply especially talmudic scrutiny to stories before broadcast.

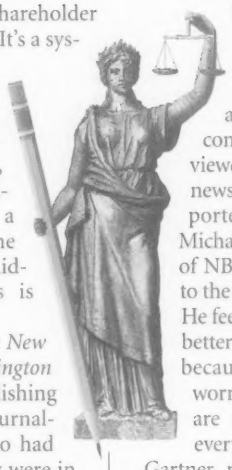
That didn't save *Dateline NBC* in 1992, when an overzealous producer doctored a GM truck with explosives to make better pictures during a staged crash. An NBC News executive ruefully recalls that the segment was well-lawyered, but no attorney had reason to inquire of the reporting team: Did you put a cherry bomb under the truck to assure a fiery blast? "You would just assume that nobody would be so stupid as to do that," the executive says, "but I guess you should never make assumptions." GM sued and won a large settlement.

One of the major shifts in the lawyer-journalist axis in recent years has been the subsuming of news organizations into huge conglomerates having disparate, non-journalistic corporate interests. "That's a big worry, a subject of great concern," says Corydon Dunham, counsel to Cahill Gordon & Reindel and former general counsel to NBC.

ILLUSTRATION/MOFFETT CECIL LIBERTY/©BETTMANN/CORBIS

'A canyon of distrust between the public and the media has resulted in huge judgments for illegal newsgathering'

"Corporate chieftains have shareholder value in mind. They have to. It's a systemic problem arising out of the ownership structure." Thus, a legal challenge to ABC News, CBS News, or NBC News (owned, respectively, by Disney, Viacom, and GE) may trigger a different response than one aimed at, let's say, Knight Ridder, whose main business is journalism.



In 1971, for example, *The New York Times* and *The Washington Post* accepted the risk of publishing the Pentagon Papers — a journalistic decision by owners who had no doubt what business they were in. But CBS in 1995, then owned by Laurence Tisch, a businessman with hotel and tobacco interests who was preparing to sell the network to Westinghouse, showed wobbly knees when threatened with a lawsuit over a *60 Minutes* segment — a sorry tale dramatized in the movie *The Insider*.

When Disney owned *The Kansas City Star* before selling to Knight Ridder three years ago, all controversial stories and potentially problematic investigative series were vetted by Disney corporate counsel in New York. It was a lousy system, says *Star* reporter Mike McGraw: "We'd have these marathon telephone conversations with lawyers in New York, many of whom had never set foot in Kansas City. They didn't know if I'd been a reporter for twenty-five years, which I have, or two. It was frustrating. I didn't enjoy it."

Inevitably, battling for press freedoms can become an expensive item in a media company's budget. "I've always viewed legal costs as a normal newsroom expenditure, like reporters and newsprint," says Michael Gartner, former president of NBC News. "It's absolutely vital to the success of a news operation." He feels that in-house lawyers are a better idea than outside counsel because management doesn't worry that editors and reporters are running up big legal bills every time they need guidance.

Gartner recalls that the *Des Moines Register* used to have the term Chief Lawyer on Duty — the CLOD. The CLOD's name was posted in the newsroom every day and the news staff could call him at any hour of the day or night.

"I'm a lawyer myself," says Gartner, "and I've always insisted there be really good First Amendment counsel everywhere I've worked. Investigative reporters, especially, must have as their partner a good lawyer. It's absolutely vital."

Perhaps the media's most intractable problem with the law is the low-grade, pervasive hostility that judges, juries, and the general public have shown toward the press in recent years. A study released in June by the First Amendment Center indicates that a majority of Americans — 51 percent — think that the press in America has too much freedom to do what it wants.

"Judicial antipathy toward the press is as serious as I've ever seen it during a thirty-year legal career," says Bruce Sanford, an attorney at the Washington, D.C., firm Baker and Hostetler and author of the 1999 book *Don't Shoot the Messenger*, subtitled: "How Our Growing Hatred of the Media Threatens Free Speech for All of Us."

The effects of that hostility are easily observed, Sanford says. For example, Judge Susan Webber Wright's refusal to allow media access to President Clinton's deposition in the Paula Jones case. The judge was "scornful, absolutely contemptuous" of reporters' requests because she felt they were mostly interested in learning about identifying marks on the president's genitals, rather than in the larger issues of the case.

Sanford coined the phrase "canyon of distrust" to describe "a gorge between the public and the media that has grown deep, dark, and airless" in the last decade, and which has resulted in huge libel awards and more judgments against journalists for alleged illegal methods of newsgathering.

Lawyers and journalists? They're yoked together in the age-old effort to expand press freedoms. If Andrew Hamilton was the first media lawyer back in 1735, many of his successors have been equally passionate — often against high-powered anti-media forces — in fighting for "the best Cause . . . the Cause of Liberty." ■

Neil Hickey is CJR*'s editor at large.*

LAWS WE LIVE BY

Here is a selective list of landmark U.S. Supreme Court rulings affecting journalism.

■ *Near* v. *Minnesota*, 1931, broadly prohibits prior restraint on publication of news, with rare exceptions such as "the sailing dates of [troop] transports or the number and location of troops." The bedrock case restricting government censorship of the media.

■ *New York Times* v. *Sullivan*, 1964, held that public officials acting in their public roles can win libel claims only with proof of actual malice. Sets up a strong shield for the media in defamation cases.

■ *New York Times* v. *United States*; *United States* v. *Washington Post*, 1971. Allowed publication of the Pentagon Papers. Strengthens the argument against prior restraint.

■ *Branzburg* v. *Hayes*, 1972, held that a reporter can be compelled to appear before a grand jury. Lays the groundwork for cases against the media relating to newsgathering activities.

■ *Gertz* v. *Robert Welch, Inc.*, 1974, concluded that private figures need not prove actual malice to satisfy First Amendment limitations on libel claims.

■ *Richmond Newspapers, Inc.* v. *Virginia*, 1980, states that the press and the public have a First Amendment right to attend criminal trials, and can be excluded only in limited circumstances.

■ *Hustler Magazine* v. *Falwell*, 1988, protects parody under the First Amendment, and holds a public figure to the *Times* v. *Sullivan* actual malice standard.

■ *Cohen* v. *Cowles Media Co.*, 1991, found that a publication can be held liable for breaching a confidentiality agreement with a source. A journalist who breaks a civil or criminal law can be liable even if that hinders news reporting. Has been used to support cases relating to newsgathering activities.

Passion and Prevention

BY GEANNE ROSENBERG

The New York *Daily News* was fending off more than twenty libel cases in 1995, when Eve Burton was brought in, as she puts it, "to stop the blood."

Although the paper had had its share of in-house lawyers, Burton's role was to be different from that of any attorney who'd come before. She was to be a physical presence in the newsroom, someone who not only was available to respond to legal crises, but a lawyer who would actually sit in on news meetings and play a more visible and direct role in the editorial process than any attorney ever.

Call it a radical idea that grew out of ignorance of editorial protocol.

The notion of a lawyer's presence in the newsroom was dreamed up by the then new chief legal officer, Martin D. Krall, whose background was in corporate law, not the First Amendment. To him, the way the editorial department handled potential libel problems "just seemed ludicrous," he recalled in a recent interview. "Whenever editors had a problem, there was a list of lawyers they could call" at an outside law firm. But that way, says Krall, "you're not doing any preventative work. It's always reactive. So I said, why don't I hire somebody and get them involved directly in the newsroom."

Daily News editors were far from enthusiastic about the idea.

Arthur Browne, who left the *Daily News* in July after twenty-seven years, said he was "skeptical." He'd just been named managing editor and remembers his reaction to Burton's presence: " I didn't like the idea of a lawyer so close to the news operation. I didn't like the idea that she was invited to the news meetings." His perspective had been built on years of experiences with lawyers who never made good on their promises to "help you get things into the paper." Browne, who has a law degree, recalls being afraid that she'd turn out to be "an obstacle rather than a help."

He was wrong.

By the time Burton announced her resignation in June and her decision to join CNN as vice president and chief counsel, she had established herself not only as a fixture in the newsroom and a capable libel litigation repellent, but also as an award-winning crusader for media access to information and a staunch defender of the right to publish.



Eve Burton in the *Daily News* newsroom

Browne says he and Burton built a strong partnership. "The libel bills dropped to almost nothing in less than a year. The paper wasn't being less aggressive. It was being more aggressive, but in a smarter way."

A defining moment in Burton's role came in November 1995, a few months after her arrival. Joe Calderone, now chief

of investigations but then a *Daily News* investigative reporter, had acquired a purloined transcript of the Jeffrey Wigand interview that *60 Minutes* had chosen not to run on its famous Brown & Williamson tobacco segment. The news people were eager to go with the story but, as Browne notes, "you had this very litigious, deep-pocketed legal adversary staring you in the face." A staffer recalls a night meeting with Burton and senior management during which she made strong arguments for publication.



Says Burton: "Neither the news side nor the business side knew how hard I was being squeezed. An editor's job is, 'let's put it in the paper'; the business perspective is to be more protective." Calderone credits Burton with helping get the Wigand information into the paper. Publisher Mortimer B. Zuckerman says he favored publication all along. But it was a turning point for Burton: reporters began seeing her as their champion, battling to get stories published.

The paper's libel problem began to wane as editors and reporters invited her input during the reporting phase of stories. Burton won dismissals of some of the cases brought before she arrived. And far fewer cases were coming in over the transom, in part because of her insistence that potentially damaging words not be published without some attribution or support.

With libel claims taking less of her time, Burton increasingly turned to helping reporters and editors gain access to information.

"Access is a use-it-or-lose-it proposition," she says; where news organizations don't insist on the right to obtain records, they're more likely to be shut out in the future.

Burton systematized Freedom of Information paperwork, setting up a process whereby FOIL and FOIA requests and their follow-up were tracked to ensure that the newspaper kept the pressure on government agencies to deliver information, and that nothing fell through the cracks.

"Unless you have some firepower on your side," the city and state agencies "delay, delay, delay," Calderone says. But with Burton's intervention and willingness to follow up requests for information with litigation, the paper obtained transit-crime data, Department of Investigations closing memos, and other information that has translated into important stories for the paper.

She also helped forge an important agreement with the New York Police Department. Complaints from reporters and photographers were pouring in to the newsroom about officers blocking access to street crime and accident scenes. Take the case of a woman who was trapped under a bus in December 1996. When photographer Mike Albans arrived at the scene, police officers forced him to stand farther back than the public. They shadowed him as he sought a clear view to the accident scene and obstructed his photo attempts. When he tried to take a photo, a police officer shoved him, he reported, and yanked off his press pass. Burton orchestrated an effort among the New York news media to document this and other conflicts between reporters and the NYPD. Ultimately, she collected more than 150 incident reports, and, under threat of litigation, the NYPD agreed to cooperate with the press and provide open access.

Burton's efforts also helped reporters gain access to New York City crime statistics, investigative reports on corruption in city agencies, the names of New Yorkers who hold gun permits, family courts, and death penalty documents. Her work garnered awards from the National and New York Press clubs and the New York Chapter of the Society of Professional Journalists.

Did her access efforts open up city government? Not completely. "It's more open to the *Daily News*," she says. "It's not more open to the public. The city doesn't want to litigate with us over every issue."

Burton was willing to summon her counterparts at other news organizations and solicit their solidarity, assistance, and signatures in her various access campaigns, even, she said, if she risked gaining a reputation for being "a little wacky."

However, while Burton is inarguably enthusiastic, "wacky" is not on the list of adjectives media lawyers use to describe her.

"Eve is one of the finest First Amendment litigators of her generation," says Adam Liptak, senior counsel at *The New York Times* and, like Burton, a strong advocate for media access. Floyd Abrams describes her as a "superb, deeply committed lawyer who's had enormously positive impact at the *Daily News* and, as a result, for the press generally."

Burton, who turns forty-two in October, envisioned herself as a First Amendment advocate long before her work at the *Daily News*. Following her graduation from Hampshire College in 1982, she worked for several international human rights organizations before studying law at Columbia, where her father was dean of the Graduate School of Business. She became committed to the idea of a career as a First Amendment lawyer while serving as a teaching assistant in a Columbia Graduate School of Journalism course taught by Vincent Blasi, a law professor and leading First Amendment scholar, and the *New York Times* columnist Anthony Lewis. By the time she completed a clerkship with United States District Judge Leonard Sand, she was determined to specialize in First Amendment law.

Calling Burton a "superstar," Judge Sand says, "I think what's unique about Eve is that her passion from law school onward was First Amendment law." Following her clerkship, Burton joined Weil, Gotshal & Manges, then one of the *Daily News*'s outside law firms, concentrating in white-collar criminal and First Amendment law before joining the *Daily News* in June 1995 as vice president and assistant general counsel. She was later promoted to vice president and deputy general counsel.

In June, seated in her *Daily News* office just off the newsroom, she was dressed more like a reporter than a lawyer, trading pumps for comfortable flats — a good thing, because she often walks at a breakneck pace — and, instead of a conservative suit, trousers and a simple cotton shirt. She never seemed to stay in her office very long. Instead, she was making the rounds in the newsroom, consulting with reporters and the photo editor and buttonholing news editors to provide advice and exchange information about stories in the works. She was not above shouting across the newsroom to catch up with an editor or reporter on the go.

In addition to checking on the status of freedom of information requests, con-

'Most times I'm not glad to see lawyers come to the newsroom. Eve is the first lawyer I was happy to see coming in my direction'

LAWYERS TO WATCH



ROBIN BIERSTEDT



GEORGE FREEMAN
ADAM LIPTAK



KARLENE GOLLER



STEVE FENN/ABC

HENRY HOBERMAN



STUART KARLE

Robin Bierstedt, vice president and deputy general counsel at Time Inc., is *Time* magazine's primary in-house lawyer. She also oversees all First Amendment and media access matters for Time Inc. A graduate of Barnard College and Columbia Law School, she specialized in First Amendment and intellectual property law at the former Townley & Updike before joining Time. She successfully defended Time Inc. in a $27 billion lawsuit brought by former Indonesian president Suharto against *Time Asia*, stemming from a story alleging corrupt practices by the ruling family. Bierstedt chairs the Magazine Publishers of America Legal Affairs Committee and is a member of the Libel Defense Resource Center executive committee. •

George Freeman and Adam Liptak are the two *New York Times* lawyers on the front lines when it comes to news-related litigation. Both worked with Floyd Abrams as associates at Cahill Gordon & Reindel. Freeman, assistant general counsel, is co-chair of the American Bar Association's First Amendment and Media Litigation Committee. He's a graduate of Amherst College and Harvard Law School. Liptak, now senior counsel, had a brief stint in journalism. He is the *Times* lawyer most directly engaged in newsroom counseling. A graduate of Yale University's undergraduate and law schools, Liptak won the New York Press Club's 1999 John Peter Zenger Award for defending and advancing the cause of a free press. •

Karlene W. Goller, vice president and deputy general counsel at the *Los Angeles Times*, is First Amendment counsel for the *Times* and other California newspapers. She's responsible for newsroom counseling, litigation, and intellectual property issues. A graduate of Middlebury College, Goller attended Georgetown University Law Center before receiving a law degree from Suffolk University Law School.

She worked for the Washington, D.C., law firm of Cole, Raywid & Braverman for three years before joining Times Mirror. She won the editorial department's 1996 Top of the Times Award, the first and only time that the award was given to a non-editorial employee. •

Henry S. Hoberman is head of litigation for ABC, Inc. in New York and oversees its defense of libel, privacy, and news-gathering cases. He was a partner at Baker & Hostetler in Washington, D.C., where he defended media companies in lawsuits, before joining ABC in 1998. While at Baker & Hostetler, he and several of his colleagues received a First Amendment Award from the Society of Professional Journalists for working to obtain the public release of independent prosecutor Lawrence Walsh's Iran-Contra report. A graduate of the University of Pennsylvania and its law school, Hoberman was a federal prosecutor and recipient of a Justice Department Special Achievement Award. •

Stuart Karle, Dow Jones & Co. associate general counsel, handles news-related legal issues for *The Wall Street Journal* and other Dow Jones publications. He earned a bachelor's degree at Columbia and then became a reporter for a Dow Jones newswire before attending law school at the University of Chicago. He rejoined Dow Jones in 1992 as counsel in the legal department, responsible for libel and privacy matters. He was an ultimate victor in the MMAR Group, Inc. episode, which led to the largest libel award ever — $222.7 million — before the case was finally dismissed. He also assisted Murray Hiebert, the *Far Eastern Economic Review* bureau chief who was jailed in Malaysia over a story on Malaysian lawsuits. •

sulting with editors and reporters, and attending news meetings, a typical day's work included refusing to comply with subpoenas demanding unpublished information; confronting the mayor's office about delays in access to information; vetting news stories and gossip items, which she does in a non-edit mode to avoid putting in any editorial changes; and consulting with outside counsel about intellectual property law questions such as whether publication of a videotaped still lifted from a television news clip might violate copyright law. Any one of these tasks, of course, could be derailed by an emergency in court.

Burton never played any role at the *Daily News* that could be construed as adverse to the interests of the newsroom, such as involvement in labor and employment issues.

"Most times I'm not glad to see lawyers come down the hallway to the newsroom," Calderone says. "Eve is the first lawyer I was happy to see coming in my direction."

Burton sometimes acted as a personal lawyer for the newsroom staff. Once, an off-duty reporter landed in jail after intervening when he thought a police officer was unfairly ticketing parked cars. He called Burton and she spent the evening rounding up witnesses and accelerating his release.

Burton says she could not have provided such support to the *Daily News* editorial department without her own support on the home front. Her husband, John A. Finck, a free-lance journalist, is the primary caregiver for the couple's two children.

As Finck was making arrangements for the family to relocate to Atlanta, word of Burton's resignation was circulating at the paper. A reporter, Russ Buettner, announced wryly to the newsroom: "There will be no more access to information from the Giuliani administration."

Zuckerman credits Burton with taking "the lead in dealing with a lot of the legal issues that came up when information was kept from us," but says the "hallmark of her stay at the paper" was her ability to engender trust.

No tears were shed at city hall. Daniel Connolly, special counsel with the New York City Law Department who has repeatedly fought Burton and backed Mayor Giuliani's attempts to limit access to information, reacted to her decision to move to CNN: "Let's just say I'm very thrilled CNN is located in Atlanta." ■

Geanne Rosenberg, a graduate of Columbia University's journalism and law schools, is a columnist at the National Law Journal *and an assistant professor of journalism at Baruch College.*

FIRST PERSON
Finding A Way To Say 'Yes'

BY JEFFREY S. KLEIN

I was the newsroom lawyer for the *Los Angeles Times* for four years, through 1987. It may have been the most fun I've ever had at a job. My experience may help journalists know what to look for in a First Amendment lawyer, how to best use one's lawyer, and when to listen to or ignore him or her.

Usually, newsroom lawyers venture into several common troublespots: subpoenas of reporter's notes, defamation suits, privacy concerns, access to courts and government files, gag orders, and prior restraints

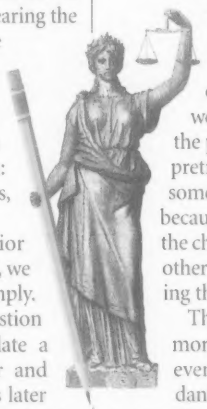
The latter provided one of my more interesting few days on the job. I was eating dinner at a Santa Monica restaurant with my wife-to-be when I was summoned to the phone for a call from our editor in San Diego. A federal court judge had ordered him not to publish a certain story in the next day's paper: a sealed grand jury report in a high-profile bankruptcy proceeding had been mistakenly given to reporters from the *Los Angeles Times* and the *San Diego Union*. There was very little interesting stuff in it. But in the mind of that federal court judge, the information was confidential and shouldn't be published.



JEFFREY S. KLEIN After four years as a newsroom lawyer, Klein held numerous management positions at the *Los Angeles Times* and Times Mirror. He left the company at the end of 1998 as a senior vice president. Klein is currently president and chief operating officer of 101communications, a Los Angeles-based trade publisher.

My phone call was transferred directly into the court chambers where an ad hoc hearing had already begun, with lawyers for the bankruptcy trustee and the *San Diego Union* already in heated debate. This was blatantly unconstitutional stuff; didn't the judge know that? He and I argued for about two hours on the phone while the dinner hour passed.

Without any written briefs at hand and no time for the judge to review the case law, he simply wanted us to agree "voluntarily" not to publish the story so that he wouldn't have to issue a potentially unconstitutional order. We'd have a fully argued hearing the next day, he said, giving him time to review the law. The editor of the *Times* wasn't going to let him off so easily, and refused the request, although the *Union* was agreeable. One important lesson: the editors made those decisions, not the lawyers.



The judge issued the "prior restraint" order. Once it was real, we had to decide whether to comply. There was, at the time, a question about whether one could violate a patently unconstitutional order and then not be subject to sanctions later on. Bill Thomas, the *Times* editor, decided to comply with the formal order—at least for the night — with specific instructions to his legal team to fight it in court. The next day, I flew down to San Diego and helped persuade the judge to reverse his order, thus avoiding an appeal process.

San Diego was a hotbed of *Times* legal activity back then. Later the same year, two *Times* reporters were instructed by a federal court judge to leave a courtroom after he ordered an aspect of the case closed to the public. The journalists, both experienced investigative types, weren't too happy. They stood outside the courtroom where they couldn't quite hear what was going on inside. So they did what any self-respecting investigative reporter would do. They leaned their ears against the door and tried to eavesdrop. Unfortunately for them, a federal marshall happened by. They were taken into custody, and ordered held by the angry judge, who found them in contempt.

There is an old adage in law school: if the facts are not on your side, pound on the law, if the law is not on your side, pound on the table. But in this case, better advice would be: beg for forgiveness. And that's about what we did. The reporters, of course, wanted to proclaim the First Amendment in defense of their blatant breach of the spirit of a valid court order. I convinced them that a polite mea culpa would probably be much more likely to keep them out of jail. It worked.

That was before several landmark Supreme Court decisions that protected the rights of the public and the press to observe preliminary criminal proceedings in action. The vagueness in the law kept me quite busy, with many judges often deciding at a moment's notice to kick everyone out of their courtrooms. This happened in one high-profile case, the McMartin Preschool child-molesting case.

The defense attorneys wanted the proceeding closed because of the extensive publicity. They argued, over five days of hearings, that their clients would not receive a fair trial if the press were allowed to cover the pretrial hearing. Although I had some personal misgivings about it because of the potential impact on the child witnesses, the *Times* joined other media in successfully opposing the closure request.

The preliminary hearing lasted more than a year. When a jury eventually acquitted the defendants, there was no doubt that the open preliminary hearing had contributed to the public's understanding.

Most of a newsroom lawyer's time is spent worrying about libel and privacy lawsuits. Many journalists mistakenly assume that the lawyer is there to make the story "safe," to keep them from being sued. But I always told my clients that I could not prevent them from being sued. People sue for silly and unpredictable reasons. What I could do, however, was to make it more likely that we would win any lawsuit, preferably quickly before getting in front of a jury.

The lawyer is in a very powerful position in this role. Indeed, sometimes with more timid editors, I felt I could kill a story simply by raising an eyebrow. That's why it is so crucial that the lawyer and journalist-client clearly understand their respective roles. The lawyer is there to give advice and counsel, not copy edit, rewrite, make guarantees, or, indeed, make decisions. On the other hand, what sometimes seemed like an editing suggestion was really a legal concern: a point needed clarification so that the story didn't inadvertently accuse someone of horrible deeds. There is nothing worse than a libel suit from someone you didn't even intend to criticize.

I've always said that the lousy lawyers are the ones who always say "no," and good lawyers are the ones who figure out how to say "yes." I felt my job was to try to get stories into the paper, not keep them out. But I did want to make sure that the stories were well documented, factually supported, and could stand the scrutiny of a judge or jury. ■

IT'S THE PROCESS, STUPID

Newsgathering Is the New Target

BY JANE E. KIRTLEY

"[W]ithout some protection for seeking out the news, freedom of the press could be eviscerated."

— Justice Byron White, *Branzburg* v. *Hayes*, 1972

For nearly forty years, journalists in the United States have been living in a fool's paradise.

The First Amendment's prohibition against laws abridging press freedom, vigorously enforced by an independent judiciary, has meant that the American reporter's ability to gather and disseminate news without interference from the government is unsurpassed in the world. But reluctant news subjects are always looking for ways to stifle the press. Their weapons vary with the times. In the late 1960s and 1970s, the government tried to discourage aggressive reporting through intimidation: tapping journalists' telephones, serving them with subpoenas, and threatening prosecution for publication of leaked information. In the 1980s, powerful public figures used libel suits to try to deflect unflattering coverage. In the 1990s, the focus shifted to claims of invasion of privacy, typically following publication of truthful facts of interest to the public, but which the news subject wished to keep secret.

Attorneys for news organizations scrambled to devise compelling arguments to convince the judiciary that allowing cases like these to succeed would undermine press freedom. For the most part, they prevailed. *New York Times* v. *Sullivan* in 1964, the "Pentagon Papers" case in 1971, *Hustler Magazine* v. *Falwell* in 1988: in these and other instances, the Supreme Court recognized that, in order to guarantee an informed electorate, the news media must be protected, given "breathing space," granted the right to be wrong. The high court erected almost insurmountable barriers to direct government censorship, and imposed heavy burdens of proof on those who would sue the press for reputational injury or hurt feelings. For the most part, hefty jury awards were overturned by appellate courts. The philosopher and scholar Alexander Meiklejohn declared it a time for "dancing in the streets." In short, it was the Golden Age of the First Amendment.

But then came the mid-1990s, and the gold began to turn to brass.

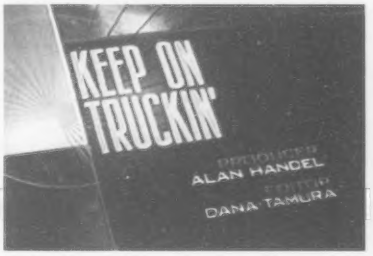
New and more intrusive methods of newsgathering, often involving electronic equipment such as video cameras and recording devices, became commonplace. Reporters and their editors, eager to feed the appetite of a voyeuristic public, assumed that the First Amendment would allow them to do anything they wished to get a story.

They couldn't have been more wrong.

Although the Supreme Court articulated progressively tougher standards for plaintiffs trying to sue for libel and invasion of privacy, these decisions focused primarily on the story as published or broadcast. Plaintiffs' lawyers knew that as long as the report in question had some modicum of public interest, obtaining any kind of relief or recompense would be difficult if not impossible.

But there is a catch to this rule. To invoke full constitutional protection, the information has to be obtained legally. Accordingly, ever-resourceful plaintiffs' lawyers focused their attacks not on the content of the story, but on how the press got it. Did the reporter use a hidden camera or a hidden microphone? Was she less than forthcoming about her identity, or her purpose in seeking entry into private property, or obtaining an interview? Did he induce a source to violate confidentiality agreements with an employer? Did she violate a criminal or civil statute in the course of gathering news? If so, the argument goes, the First Amendment offers no special protection to journalists. They are subject to the laws just as any other citizen would be.

In case after case, courts refused to recognize any special privileges for journalists to enter private property, especially under false pretenses. In the most infamous example — Food Lion's lawsuit against Capital Cities/ABC for *Primetime Live*'s hidden-camera story about alleged unsanitary conditions in grocery stores — the Fourth Circuit Court of Appeals upheld the grocery chain's claims for trespass and so-called "breach of duty of loyalty." The court found that when the network's employees misrepresented their reasons for seeking jobs with Food Lion, they no longer had the right to enter the store's non-public areas.

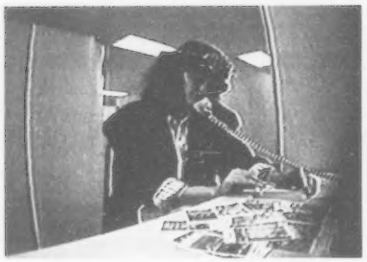




A truck driver story cost NBC $150,000; *Dateline NBC*'s correspondent Fred Francis, right

The Food Lion court dismissed the plaintiff's claim for fraud, primarily because of the language of the relevant state statutes. But in 1998, a Minnesota appellate court allowed the operators of care facilities for the mentally retarded to continue a lawsuit against WCCO-TV. Its reporter had applied for a position as a volunteer, representing herself as unemployed. Using a hidden camera, she videotaped activities at the center, and the footage was used in news reports. The court found that the reporter's failure to disclose her status as a journalist was misrepresentation amounting to fraud.

The same year, a jury in Maine awarded $150,000 in damages to Raymond





ABC's undercover reporter (left) interviewed a psychic hotline employee

Veilleux, owner of a trucking company, after a reporter for *Dateline NBC* accompanied one of his drivers on a cross-country trip. Veilleux claimed that *Dateline NBC* had promised that the story would portray long-distance truckers in a favorable light. Instead, the broadcast revealed that the driver had violated federal regulations and tested positive in a random drug test. The First Circuit Court of Appeals ruled in March that the alleged promise to provide "positive" coverage was too vague to justify a charge of misrepresentation. But it upheld a separate claim based on the jury's finding that NBC had induced the truckers to participate in the story by assuring them it wouldn't interview an activist group critical of the trucking industry's safety practices. NBC denied making the promise and argued, to no avail, that investigative journalism would be inhibited if news organizations had to litigate disputes about what promises they had made to sources. Journalists should not have "a greater license to lie than is enjoyed by other citizens," the court said.

Using a hidden camera and microphones in states where it's illegal, such as California, can lead to civil liability, as ABC discovered when its reporter obtained a job as a telephone psychic, gained access to the "boiler room" of the hotline service, and secretly recorded her conversation with a coworker. The court found that the coworker had a reasonable expectation of privacy against "electronic intrusion" in the workplace. In another California case, the state Supreme Court allowed intrusion claims to proceed to trial based on a television show's use of a videotape camera inside an air ambulance to record the transport of accident victims to a hospital. "We are aware of no law or custom permitting the press to ride in ambulances or enter hospital rooms during treatment without the patient's consent," the court said.

And as free-lance journalist Larry Matthews learned, there is no special First Amendment privilege allowing journalists to search for and trade in child pornography on the Internet in the course of newsgathering. The Fourth Circuit ruled that his prosecution under federal law was permissible because the government's interest in protecting children from exploitation includes no exception for journalism.

As troubling as these decisions are, they at least involve instances where the journalists may have violated a law. But what if a journalist is the innocent recipient of the fruits of a crime? Several courts have recently considered whether federal wiretap law is broken when a news organization receives and discloses the contents of intercepted telephone conversations — even if it did nothing to encourage the illegal taping itself. In *Bartnicki* v. *Vopper*, the Third Circuit Court of Appeals followed Supreme Court precedent and found that protecting communications privacy does not justify punishing those who merely disclose, but do not unlawfully intercept, a telephone conversation. But in another case, *Boehner* v. *McDermott*, the D.C. Circuit concluded that disclosure to the press of an illegal tape recording is not "speech" protected by the First Amendment. This ruling is particularly chilling in light of current legislative proposals sponsored by Republican Senator Richard Shelby of Alabama that would criminalize leaks of classified information to the press. It raises the possibility — seldom seriously considered since the end of the cold war — that a news organization could be prosecuted if it knowingly publishes such material. The Supreme Court will review the Bartnicki case this term.

In many respects, this sad litany of losses and setbacks is symptomatic of a fundamental problem. To journalists, it is self-evident that investigative reporting informs the public, exposes corruption, and rights wrongs. They argue that these important ends justify the use of virtually any means to achieve them. But the judiciary isn't buying that. The essential watchdog role that the press should play in a democracy is lost on many of them.

In *Wilson* v. *Layne*, the "ride-along" case decided by the Supreme Court in May 1999, Justice William Rehnquist wrote that the media's presence during the serving of an arrest warrant in a private home had no legitimate purpose. Similarly, in *Lauro* v. *City of New York*, a federal district judge in Manhattan upheld a claim that a "perp walk" violated a suspect's Fourth Amendment rights and merely sensationalized the facts of his case. The court did not recognize that the presence of the press could promote public understanding of how the criminal justice system works.

At the heart of the landmark First Amendment rulings of the 1960s and 1970s was a profound respect for the role of the independent news media in a democracy. This led jurists like William Brennan to recognize privileges for speech that had never enjoyed constitutional protection previously.

Unfortunately, the judiciary has changed. In his dissenting opinion in *Dickerson* v. *United States*, last term's case reaffirming the Supreme Court's 1966 Miranda decision, Justice Antonin Scalia sneered at a number of seminal free-speech decisions as articulating "certain overprotective First Amendment rules."

Does that sound like a justice who will forge new protections for the press?

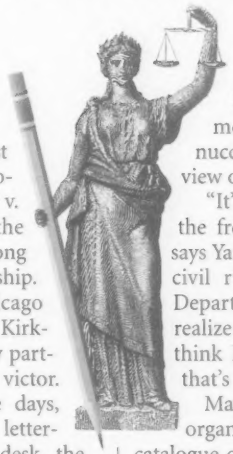
The dance is over. ■

Jane E. Kirtley is the Silha Professor of Media Ethics and Law at the University of Minnesota's School of Journalism and Mass Communication. From 1985-1999, she was executive director of The Reporters Committee for Freedom of the Press. She is also a First Amendment Fellow of the National Press Club in Washington, D.C.

Plaintiffs' lawyers are focusing their attacks on how journalists got the story — and the courts are ruling against the media

Tom Yannucci: On the Attack

BY GEANNE ROSENBERG



It was one of the greatest First Amendment victories of all time — *Near* v. *Minnesota*, in which the Supreme Court took a strong stand against media censorship. A fifty-three-year-old Chicago lawyer named Weymouth Kirkland, with help from his law partner, Howard Ellis, was the victor. The year: 1931. But these days, when the Kirkland & Ellis letterhead crosses a newsroom desk, the long-deceased partners' names are more likely to engender fear than comfort.

Why? Because Kirkland & Ellis, through the efforts of Thomas D. Yannucci, managing partner of the firm's Washington office, has opposed the news media in controversies that have discredited major news organizations, damaged journalists' careers, and brought millions in settlements to corporate clients.

Yannucci represented General Motors in its 1993 suit against *Dateline NBC*, showing that the TV newsmagazine had used hidden explosives in a televised crash test demonstration. On behalf of Brown & Williamson his team fought CBS over use of the Jeffrey Wigand interview in the *60 Minutes* tobacco story. And, in the Chiquita Brands International, Inc. voice-mail fiasco, Yannucci extracted front-page apologies from *The Cincinnati Enquirer*, more than $10 million in damages, and the firing of investigative reporter Mike Gallagher. Those few cases indicate how Yannucci and Kirkland & Ellis battle news organizations on behalf of megacorporations.

Some journalists perceive Yannucci as an enemy of the First Amendment. But that's overly simplistic. Kirkland & Ellis — Kenneth Starr's home base, and a financial contributor to Hillary Clinton's Senate campaign — is by no means monolithic, and Yannucci is not single-minded in his view of the press.

"It's not that I don't believe in the free press and civil liberties," says Yannucci, who has worked as a civil rights lawyer at the Justice Department. "I do, very much. I realize that some of my opponents think I'm from the dark side, but that's unfair. I'm not anti-press."

Maybe not, but the list of news organizations he's tangled with is a catalogue of America's top media companies: ABC, NBC, CBS, CNN, *The Wall Street Journal*, *The New York Times*, *The Washington Post*, *The Philadelphia Inquirer*, *USA Today*, *The New Yorker*, *Barron's*, Bloomberg, *Consumer Reports*, *Sports Illustrated*, Reuters, The Associated Press, and others. One editor, who declines to be named, calls Yannucci "a ferocious advocate," and adds: "I wish he represented the media."

Yannucci did not set out to become a news media adversary. He had a broad litigation practice when General Motors, a long-standing Kirkland & Ellis client, contacted his firm with suspicions about the veracity of the *Dateline NBC* broadcast. Yannucci, who had prior experience with product disparagement cases, mostly in disputes between competitors, took on the high-profile dispute and, thus, in 1993, jump-started his media law practice, which now accounts for about a quarter of his workload.

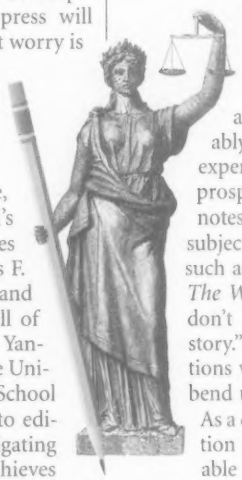
Yannucci quickly established himself as one of the defamation lawyers news organizations take very seriously, joining the ranks of John J. Walsh, now of Carter, Ledyard & Milburn, and Martin London, of Paul Weiss, Rifkind, Wharton & Garrison. In-house lawyers at top news organizations describe him as "extremely aggressive," "very effective," a straight shooter, and someone who, more than any other plaintiffs' lawyer, "strikes fear in news organizations' hearts." Instilling fear is not necessarily a bad thing from Yannucci's perspective. "I do take it as a compliment," he says.



MARTIN SIMON

When representing a client during the reporting phase of an investigative story, Yannucci typically sets ground

rules for interviews, such as extracting an agreement that a reporter won't confront the interviewee with any surprise documents. "Clients tend to be suspicious or worried that the press will attack them, and some of that worry is justified." Investigative reporters have no great interest in stories that conclude nobody did anything wrong, he points out.



In the prepublication phase, one of the lawyers in Yannucci's practice — which now includes two other law partners, James F. Basile and Eugene F. Assaf, and associate Thomas A. Clare, all of whom were hand-picked by Yannucci from his alma mater, the University of Notre Dame Law School — will typically send letters to editors and lawyers at the investigating news organization. That achieves two goals: it increases the chances that the reporting will be more carefully scrutinized by senior editors and lessens the possibility that the client will be contacted for response at the eleventh hour.

Some defamation lawyers, including Martin London — whose victories include Jacqueline Onassis's privacy dispute and a Brown & Williamson case against CBS affiliate WBBM-TV in Chicago — write letters with the aim of scaring off news organizations. When asked about preemptive strikes against the news media, London replies, "I do that all the time. I have always done that. I think it's intimidating." He compared a defamation lawyer's threats of libel suits to a police officer's "chilling effect on a mugger." Yannucci, now fifty, says that intimidation is not his style. He prefers "to persuade, not intimidate."

Kirkland & Ellis sometimes positions itself between a news organization and the subject of an investigation. For example: when representing the manufacturer Brush Wellman, Inc. — in a conflict with the *Toledo Blade* over the paper's award-winning report on the dangers of beryllium — the firm insisted that future queries from the paper be addressed to the law firm instead of the company.

When an investigation is "turning south," the firm writes "warning letters" to editors and their lawyers, putting the news organization "even more on notice that they've got to include our side of the story."

Some publications and broadcast news outlets, which he declines to identify, are more likely than others to "shy away from a fight," Yannucci says, probably out of concern for the expense of litigation and the prospect of having reporters' notes and the editing process subject to examination. Others, such as *The New York Times* and *The Wall Street Journal*, he says, don't get "scared away from a story." But even news organizations with a lot of backbone can bend under the right arguments. As a consequence of prepublication efforts, he says, he's usually able to influence a story (for example, getting the client's name dropped), or even stopping one, "not because of threats, but because the editors become convinced their story didn't pan out."

Post-publication is another game altogether, in which the defamation lawyer goes on the offensive. In this posture, Yannucci demands corrections, apologies, retractions and/or the publication of letters to the editor in the effort to repair the client's public image.

Kirkland & Ellis won a letter of apology from Houghton Mifflin to former White House aide Mark Paoletta over a reference to him in a book about Supreme Court Justice Clarence Thomas.

In NBC's retraction for its "Waiting to Explode" segment, Jane Pauley and Stone Phillips admitted to a national audience that NBC's contractor put incendiary devices under GM trucks to ensure there would be a fire, that placing the devices "was a bad idea from start to finish" and that they deeply regretted the "inappropriate demonstration." Yannucci won a large settlement, but he often advises clients not to litigate. "Credibility is extremely important to my practice," he says.

Another of Yannucci's post-publication tactics is to write to awards committees requesting that stories about his clients be dropped from consideration. Kirkland & Ellis contacted prize boards, including the Pulitzer board, that were considering the *Toledo Blade*'s beryllium series. The law firm failed in that effort. Past presidents of the Cleveland and Cincinnati chapters of the Society of Professional Journalists wrote to the *Blade*'s executive editor, Ron Royhab, stating: "You should know that our chapters were approached by the Kirkland & Ellis law firm, asking us to dump the [beryllium] series from the competition. We most certainly refused. We are pleased to inform you the series has won first place for the Best Investigative Reporting Award."

The series also was a Pulitzer finalist, won the Investigative Reporters and Editors top award for outstanding investigative work, and earned a CJR Laurel.

Fritz Byers, general counsel of Block Communications, which owns the *Toledo Blade*, says that in twelve years of representing the *Blade*, he's "never seen anything like this — this kind of intensive attack on a publication.

"Newspapers and general counsel for newspapers are very familiar with receiving complaints about articles — claims that a story was false, or omitted facts, or was somehow misleading. That's not new. What is striking about this episode is that the challenge to the publication went so far beyond suggesting there were factual errors. It involved also attacks on the publication to third parties. I had never witnessed anything like that before."

Yannucci defends the practice of contacting prize boards in certain cases. "If you think a story is unfair, it's only adding insult to injury to have it given an award," he says. "It's part of what a journalist should expect if they do a story. It ought to withstand scrutiny. I would think the committee would want to hear both sides of the story before they issue an award."

As for his firm's attack on the *Blade*, Yannucci, an Ohio native, responded, with a trace of a midwestern accent, "Chiquita and *Dateline NBC* were pretty concentrated attacks. It can rain a lot harder. It can get worse."

Yannucci and his firm have been involved in a challenge to Seymour Hersh's *New Yorker* article about the former general and current drug czar Barry McCaffrey's role in the gulf war.

In most media cases, says Yannucci, "money is not the objective. Clients are

Yannucci: 'Money is not the objective. Clients are almost always focused intently on "This is terrible. This is unfair."'

POINT OF VIEW

'If Journalists Want to Test the Law, I'll Be There to Meet Them'

BY NEVILLE L. JOHNSON



Neville L. Johnson, an entertainment and media lawyer specializing in privacy and libel law, is a partner in the Los Angeles-based firm Johnson & Rishwain.

It is no longer business as usual for journalist-spies. The supposed great tradition of undercover journalism is a shattered myth. Nellie Bly was a self-aggrandizing stunt journalist held in disrepute by many of her peers. Upton Sinclair's *The Jungle* was a novel — and he didn't break any laws writing it.

Over the last seven years, I developed quite a nice legal practice by bringing lawsuits against ABC's *PrimeTime Live*. The courts spoke most loudly in *Sanders* v. *American Broadcasting Companies*, Inc., a 1994 case in which ABC News used professional hidden camera operatives — who did not reveal their real intentions — to secretly tape at the office of a psychic hotline.

Last February, the network finally paid out nearly $1 million (almost half of it in punitive damages), but there is no evidence that ABC News ever bothered to report the case's resolution, or to apologize to Mark Sanders, the psychic reader — or to the viewers who were deceived by the broadcast. The Sanders case, tried before Food Lion, is significant because it was the first time in broadcast history where substantial actual damages, based on intrusion, were levied and upheld on appeal — significant, too, because it was the first reported case where punitive damages also were upheld. Moreover, it was a quite rare unanimous opinion by the California Supreme Court, in June 1999.

Sadly, there are no standards in place at any TV network that require an on-air report of a judicial defeat. Law professor David Logan of Wake Forest University believes that journalists cannot call themselves members of a profession because no formal training is required, there is no sublimation of self-interest to the public good, and no self-regulation.

One startling, apparently never-reported fact about the Sanders case was that the massed forces of media — the Newspaper Publishers Association, the National Association of Broadcasters, the Newspaper Association of America, the Reporters Committee for Freedom of the Press, CBS, NBC, CNN, and other media giants — filed an amici curiae brief in the California Supreme Court arguing there should be no right of privacy in many of the workplaces of America; that citizens should go to their jobs with the understanding they might be secretly taped for broadcast. Why wasn't the public advised of this radical position — which the justices rightly rejected?

When the press loses in court, it has a moral obligation to report that news. It is only fair to the victim of the unethical or wrongful conduct. The public has a right to know if journalists broke the law while researching the story — and to hear that from the news organization that made the tainted information public.

Mark Sanders's reputation remains besmirched. A theme of the trial was that he was such a low-life that he didn't deserve much in the way of damages. Since then, the producers of that piece, Ira Rosen (also a defendant in Food Lion) and Thomas Albert Oetgen (now at *Dateline NBC*), are still gainfully employed as TV journalists.

Journalists writing or broadcasting negative stories should allow full and fair rebuttal by their victims. That would ensure robust debate. The Minnesota News Council is an excellent forum for holding journalists accountable, yet media organizations elsewhere eschew such a concept. Why? Because journalists are allergic to public self-examination.

If journalists cannot create and live up to a serious code of ethics, but want to test the law, I'll be there to meet them when they err. I consider it an important public service: to proclaim that journalists must not break the law to gather the news.

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almost always focused intently on 'This is terrible. This is unfair. Can you help me get this clarified.'"

Indeed, history shows that defamation plaintiffs rarely recover monetary windfalls. Defamation cases can drag on for years and, even if the plaintiff succeeds at the trial level, awards often get sliced to next to nothing on appeal.

John J. Walsh has had many long media litigations and some major court victories, but hardly any significant monetary awards that have withstood the test of appellate review. In his first major libel case, he represented William P. Tavoulareas, former president of Mobil Oil, against *The Washington Post*, over some 1979 news articles that alleged he misused his position. Walsh won a $2,205,000 judgment, which was upheld on its initial appeal, and later reversed. The case wasn't finally laid to rest until 1987, when the Supreme Court declined to review it.

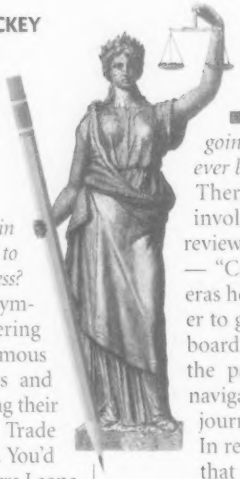
Unlike the well-organized and collegial media defense bar in which members from different firms support each others' attempts to protect the First Amendment and the rights of the press, media plaintiffs' lawyers tend more to be lone wolves than part of a pack.

"We're kind of a disparate group," says Walsh. Lawyers who sue the news media aren't united in "a common cause."

While Yannucci does some media defense work, it can be difficult for a media plaintiffs' lawyer to also defend media companies. Martin London, who once upon a time did libel defense work for the *New York Post*, says representing plaintiffs "was not a question of conscience on my part. I didn't switch sides. The sides switched me." Ever since his representation of Brown & Williamson, London says, he's never had another media client. "They would never hire me. They're very clubby about that." ■

'Everybody Is More Careful Than They Used to Be'

CJR EDITOR AT LARGE NEIL HICKEY INTERVIEWS LUCY DALGLISH, EXECUTIVE DIRECTOR OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS, ABOUT CURRENT MEDIA LEGAL TRENDS



■ *How has the climate changed in the last five or ten years with regard to legal action brought against the press?*
Police and courts are much less sympathetic to the newsgathering process. There's been an enormous increase in arrests of reporters and photographers who are just doing their jobs — covering the World Trade Organization riots, for example. You'd think they were in Kosovo or Sierra Leone. Police used to say, "Okay, you have a press pass around your neck. Stand back please and give us some space." Now they're just arresting them.

■ *What's the reason for that?*
I wish I knew. They're just less willing to give the media a break. The other trend I've noticed lately is the willingness of trial court judges to issue prior restraints against the media. They apparently have never heard of *Near* v. *Minnesota* or the Pentagon papers. It appalls me.

■ *Is there more lawyering going on in the newsroom than ever before?*
There are more lawyers involved in prepublication review, particularly in television — "Can we take hidden cameras here? Can we go undercover to get that story?" Across the board, there's more activity on the part of lawyers trying to navigate the law in ways to help journalists better cover a story. In recent years, it's more likely that lawyers will read a story or watch a tape ahead of time if they feel there's any chance at all of it being controversial. Everybody is more careful than they used to be.

■ *Why is that?*
It's a combination of things: the threat of big verdicts, the public's distrust of the media, the media's desire to improve credibility with the public. Plus, laws relating to newsgathering differ so greatly from state to state that reporters often need assistance in navigating them.

■ *What's the trend in newsrooms being hit by subpoenas?*
We track the number of subpoenas issued year by year. It's been pretty steady. In 1997, for example, our study showed that our newsroom participants received 2,725 subpoenas. That number has held fairly steady over the past decade. Florida implemented a shield law for the first time a few years ago. Texas is particularly bad if you're a journalist. And they've been doing some goofy things in California — coming up with odd exceptions about whether a journalist can invoke the reporter's privilege under cross-examination. So the landscape has not improved. Just recently, journalist Timothy Crews, editor and publisher of the *Sacramento Valley Mirror* in Red Bluff, California, spent five days in jail for refusing to testify in a criminal case. We hadn't had anybody else actually sentenced to jail time for a couple of years, but jail sentences are pending against several journalists right now. We keep on our Web site a list of journalists who've been thrown in jail over the last thirty years.

THREATS TO NEWSGATHERING

A slew of newsgathering cases relate to the premise that journalists have no special privilege to break the law while they're gathering the news. Here are some of the most significant cases that are affecting newsgathering activities.

■ *Shulman* v. *Group W. Productions, Inc.*, (California, 1998), allowed an accident victim taped by a television crew without her consent to bring a claim for intrusion.

■ *Wilson* v. *Layne*, (Supreme Court, 1999), held that law enforcement officers violate the Fourth Amendment when they invite reporters into a private home in their execution of search warrants.

■ *Berger* v. *Hanlon*, (9th Circuit, 1999), found that journalists who enter a private home with law enforcement officers — without specific consent of an occupant — can be sued for trespass.

■ *Food Lion* v. *Capital Cities/ABC, Inc.*, (4th Circuit, 1999), allowed a supermarket company to recover damages for "breach of duty of loyalty" and trespass in a case in which two ABC News *PrimeTime Live* reporters assumed false identities to gain employment, and used hidden cameras to expose unsanitary food-handling practices. The jury award: more than $5 million, ultimately reduced to two dollars.

■ *Bartnicki* v. *Vopper*, (3rd Circuit, 1999, recently accepted for review by the Supreme Court), held that journalists had no liability for broadcasting a private cell phone conversation which they had played no role in intercepting.

'I'm disturbed that more newsrooms don't challenge gag orders; they're forced to base stories on rumors, innuendo, lies, leaks'



LUCY DALGLISH

- Executive director of the Reporters Committee for Freedom of the Press since January, 2000
- 1980 graduate of the University of North Dakota; B.A. in journalism
- Reporter and editor at the *St. Paul Pioneer Press*, 1980-93
- Journalism fellow at Yale Law School, 1987-88, receiving a Master of Studies in Law degree
- Juris Doctor degree, Vanderbilt University, 1995
- Trial lawyer, specializing in media law, at the Minneapolis firm of Dorsey & Whitney, 1995-2000
- Chair of the Society of Professional Journalists' Freedom of Information Committee, 1992-95; awarded the Wells Memorial Key, SPJ's highest honor, 1995
- Inducted into the National Freedom of Information Act Hall of Fame in Washington, D.C., 1996

■ *Are media lawyers still advising clients to resist subpoenas to the bitter end?*
Definitely. We encourage them to take it as far as they possibly can. You should always challenge it — go to court and move to quash the subpoena, understanding that in some states with weak or no shield law, there may be no protections for journalists. Still, the journalist has the option of refusing to comply and then living with the consequences.

■ *What can we say about the value of shield laws, nationwide?*
They insure greater independence for the media. They make it less likely that a newsroom or a journalist will be co-opted into being an agent either for the prosecution or defense — or, in a civil case, an agent of the discovery process. For example, Minnesota had some peculiar court decisions in the early nineties that said essentially that if a newspaper had information about a civil case, like an unpublished photo of an accident, they had to turn it over. That turned journalists into the source of first resort for discovery, and it became incredibly burdensome for newsrooms to keep filling these discovery requests. Minnesota's media got organized in 1998 to push for changes in the state's shield law. Now, civil litigants are not entitled to reporters' notes, testimony, or outtakes at all. And the reporters' privilege was strengthened in criminal cases also.

■ *What's the trend in hidden cameras and microphones?*
Right after the Food Lion case, we saw a precipitous decline in the number of newsrooms willing to do hidden-camera stories. That was not a bad thing because it brought a period of self-examination in which journalists decided they'd use hidden cameras and microphones only under exceptional circumstances. Now that the Food Lion verdict has been knocked down to a few dollars, I'm starting to see newsrooms increase their use of hidden cameras.

■ *Are judges issuing many gag orders, which make the job of journalists so much more difficult?*
That continues to be a horrible problem. There has been an explosion in the number of gag orders, which prevent journalists from interviewing the contending parties, or the court, or anybody in the court house — even for clarification of procedural matters. Judges are deciding that the only way to control their case is to make sure that no information at all gets out about it. We had a situation in Texas where a federal judge in more than 200 cases over the past two years just automatically issued gag orders on the parties, as part of his regular scheduling order. And some of those cases involved bench trials, where the judge hears the case and there's no jury! Gag orders are supposed to insure that you'll have an unbiased jury. It's stupid. I'm disturbed that more newsrooms don't challenge gag orders. They just live with it. It means that they are forced to base stories on rumors, innuendo, lies, and leaks. You can't argue that the public is served by that.

■ *Sealed documents in court cases are also a big hindrance to journalists.*
I think that even journalists don't recognize how often documents get sealed. Having been a litigator, I know that it happens even in libel cases. I find that to be offensive. In the trial that convicted former Louisiana Governor Edwin Edwards of twenty-eight counts of racketeering, Judge Frank Polozola sealed virtually every document relating to the case. That's ridiculous! Reporters covering the trial started calling him Ayatollah Polozola.

■ *Some courts are insisting on having anonymous juries, with the identities of jurors being kept secret from the press and everybody else.*
I find this to be a very disturbing trend. In an extreme case, where you have some mobster on trial, then you might argue that jurors could be in some physical

danger. That's the only circumstance where anonymous juries make sense, but a lot of judges are imposing anonymous juries where there's absolutely no risk that a juror is going to be harmed. That's especially true in civil cases. What's the risk? The press and the public are entitled to know who are making these decisions on our behalf. I can't believe that more defense attorneys don't object because I think it involves their clients' Sixth Amendment right to a fair trial, part of which is to be tried by a jury of your peers. You are entitled to know that they are your peers. Also, what message does that send to a jury? "This defendant is so dangerous we can't let him know who you are." A lot of good reporting can be done after verdicts, when a reporter can go back and interview the jury. You can find out what they were thinking and a lot about how a verdict was arrived at.

■ *How is the Supreme Court behaving with regard to media cases?*
It's been a while since they've taken one. They don't take very many. Last term, they took two cases with implications for the media. They upheld Congress's right to tell states that drivers' license records must be closed, and they upheld a California statute that shut down access to public records by companies that wanted to make money from the information. We strongly opposed both of the laws.

■ *What's the effect of media consolidations on the will and capacity of those big corporations to go to court and defend strenuously the news organizations they own? Are they more inclined to settle, for p.r. reasons, than stand-alone journalism companies?*
I haven't noticed that. I've defended cases for both Disney/ABC and Gannett, and there's no big difference in strategy between them and the small independent media. If word gets out that you're willing to settle these media cases, or cave in, you're just inviting a flood of lawsuits. You have to fight them aggressively. While there might be a handful of anomalous cases out there, I don't know that conglomerates' owning media is any more dangerous than having some good-old-boy local newspaper owner making sure that the names of his golf buddies don't appear in the DWI column.

■ *Media lawyers as a class — what are they like? One gets the impression that they revel in the tumult and trench warfare of fighting for these journalism issues.*
It's very flashy. There are people who would do almost anything to be media lawyers. Your clients are colorful, committed people and the constitutional issues are fascinating. You feel that you're doing this noble thing every day. You're standing up and saying: "We know that journalists can be offensive and discomforting, but by God don't we have a great system that embraces and protects this type of free speech? And unless we uphold this story and give this news organization the freedom to report it, the entire American system of justice will crumble to the ground." You're out there representing the only entity, the press, that is specifically mentioned in the Constitution. It's heady stuff.

■ *On the other hand, there are plaintiff lawyers who specialize in hauling the press into court for libel, defamation, illegal newsgathering techniques, fraud, trespass.*
Most of them are solo practitioners at small firms. They work on contingency. They kind of roll the dice. The good ones are very good. If you're a plaintiff's lawyer working on, let's say, a defamation case, you need to really have mastered the law because there are a lot of defense tactics the media can invoke. And there's a well-organized media defense bar. Besides, if a media organization makes a mistake, most are very agreeable to running a correction, and apologizing. So if you think you're going to get rich bringing cases against the media, think again. Of course, big companies like Food Lion and Chiquita hire big firms. Individuals tend to hire lone operators.

■ *But can't any good lawyer argue either side of a media case?*
Not usually. I don't know that many people understand this. Here's the way it works. If you are going to represent one of the big media companies like CBS or Gannett, you usually have to agree that no one at your entire law firm will represent a defamation plaintiff against a media company. That is something that the libel insurance companies generally insist upon. When I was at Dorsey & Whitney, for example, a major airline was a client. Suppose they came to us and said, "We are going to go after the *Los Angeles Times* because they said this terrible thing about us and by God we are going to get them." We would not take that case because we also represented Gannett. That's why you have either libel defense attorneys or libel plaintiff's attorneys. Almost never do the twain meet because if you're a media company your insurance may not pay for your defense if you use a lawyer known for bringing plaintiff defamation claims.

■ *But isn't there a kind of cat-dog tension between journalists and lawyers overall?*
Most media lawyers have some sort of journalism background and understand that the goal is to get the story published. They will work very, very hard with the journalist and almost never kill a story. They say: "I don't think we can do it this way, how about going about it this other way instead?" Most media lawyers really enjoy being in newsrooms — the energy of journalism is thrilling. Lawyers and journalists have a lot in common. Their personalities are similar. They both gather information and process it — either arguing it in a courtroom or putting it out to the public. They're both information junkies, sucking up all kinds of facts and impressions, and either telling the public or the court all about it. ■

LEGAL HELP WHEN YOU NEED IT

The Reporters Committee for Freedom of the Press began in 1970 during the Nixon administration when journalists were inundated with government subpoenas demanding the names of confidential sources. Among the founders: J. Anthony Lukas, Fred Graham, Jack Nelson, Ben Bradlee, Mike Wallace, Tom Wicker. With help from foundations and media companies, the committee began recruiting lawyers to donate their services. Over three decades, it has been involved in virtually every significant press freedom case before the Supreme Court, and in hundreds of cases in state and federal courts.

A nonprofit organization, the committee's only revenues are donations and the sale of its quarterly magazine, a bi-weekly newsletter, and handbooks on media law issues. It maintains a free 24-hour hotline (1-800-336-4243) and a Web site (www.rcfp.org). More than 2,000 journalists a year request its guidance on legal questions, and none has ever paid for the committee's assistance in advancing First Amendment rights.

. . . LIBEL

OLD CONCERNS RENEWED

BY SANDRA S. BARON

Libel is a claim that sounds almost quaint these days.

The laws and lawsuits that grab big headlines and start journalists' tongues wagging are the ones about questionable newsgathering techniques — invasion of privacy, fraud, misrepresentation. But good old-fashioned libel remains the claim of choice for the vast majority of plaintiffs who feel the press has done them wrong.

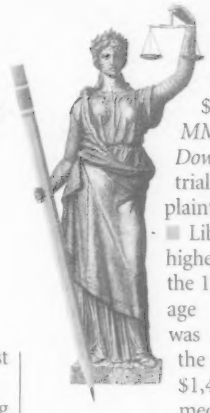


SANDRA S. BARON is executive director of the Libel Defense Resource Center, which promotes First Amendment rights in libel, privacy, and related fields. She has served as senior managing attorney at the National Broadcasting Company, Inc., and associate general counsel for public station WNET-TV in New York, and was an associate with the New York law firm of Cahill Gordon & Reindel. She is a 1974 graduate of the Columbia University School of Law.

More frequently than in any other kind of case, it ends in lengthy, expensive litigation and large damage awards.

A survey by the Libel Defense Resource Center (LDRC) of 490 lawsuits against the media in 1998 showed that almost 67 percent of the complaints involved libel, while 4.9 percent (and growing) related to newsgathering. A few other benchmarks:

- 1999 saw the highest average and median compensatory damage awards in the twenty years that LDRC has been conducting the survey. That number was skewed by some extraordinarily high libel awards, especially history's highest — $222,720,000 in *MMAR Group Inc.* v. *Dow Jones & Co.* (A new trial was ordered and the plaintiff dropped the case.)
- Libel awards were a lot higher in the 1990s than in the 1980s. The 1990s average (including *MMAR*) was $5,354,154, while in the 1980s it was $1,444,486. The 1990s median was $370,000; in the 1980s, $200,000.



What hasn't changed dramatically in recent years are the core, libel-related concerns that journalists need to keep before their eyes, including:

- Whether an alleged defamatory assertion in a print story or news broadcast is "protected opinion."
- Whether a journalist is committing "libel by implication," and if so, what does the plaintiff need to prove to win the claim.
- Whether the plaintiff is a public official, a public figure, or a private figure — as those terms are used in libel law.
- Whether the plaintiff can prove that the journalist published with the requisite degree of fault, be it actual malice or negligence.

Let's take a quick look at those.

Statements that are truly opinion, and can't be proven to be either true or false, are protected in various ways under libel law. But just calling something an opinion doesn't make it so. "I think" and "I believe" may not assure protection for the words that follow. If a judge and jury — surrogates for the reasonable and average news consumer — decide that what a reporter has said are defamatory facts masked as opinion, or is an opinion that hints there are unreported defamatory facts, the plaintiff has a good shot at winning the case. Beware: there is lots of litigation here. Some jurisdictions are more protective of journalists on this issue than others, among them New York, Ohio, Massachusetts, and Utah.

Libel-by-implication is a devilish and common cause of legal action against news organizations. It's based on the notion that a list of assertions about a person in a news story may be perfectly true, but when strung together create a defamatory impression. Examples: a judge sued HBO in a Texas state court over a documentary about how women are treated in custody disputes. The judge claimed that the program somehow left the impression that his decision-making was irrational and arbitrary. Also in Texas — a hotbed in recent years for implication claims — a broadcast news report about an elected official and a young, female member of his staff showed them at an amusement park with the official's children during a work day. The staff member sued, claiming the report had subtly suggested that she and her boss were having an affair. In both cases, the claims have thus far been dismissed.

A word to the wise journalist: libel-by-implication cases cannot always be avoided. But where you aren't prepared to draw the conclusion directly, be careful. The facts are the facts. If they lead some readers or viewers to invidious conclusions, so be it. Get a tough editor and lawyer to review the piece, then be brutally honest in reporting it. Libel-by-implication cases twist reporters into knots as they try to explain to juries that they believed the implication was true but did not have enough evidence to say it outright; or they knew it was false, but did not mean to say it to begin with; or that they suspected the implication was true but only meant to lay out the facts so that readers could make up their own minds. Imagine being on the witness stand in such a case; it's warning enough about the need to look at such stories — what is being said and whether it jibes with what was meant to be said — with a cold, hard eye. What lawyers are slugging out is whether the plaintiff has to prove the reporter knew the story carried an implication, that it was intentional, and, in addition, that he was aware it was false and defamatory.

Ever since *New York Times Co.* v. *Sullivan* in 1964, and subsequent Supreme Court decisions, courts in libel cases must first determine whether the plaintiff is a "public official," a "public figure," or a "private figure" — terms of art in libel law which do not necessarily mean what the common parlance would suggest. As almost every journalist knows, the law makes it much more diffi-

cult for public officials and figures to win a libel suit, at least when the story deals with matters of public concern. Despite common sense, courts are often reluctant to find that corporations, even very large ones, are "public" — which complicates media lawyers' lives because corporations are by far the largest category of plaintiffs bringing libel suits.

That leaves the fourth of our things-to-keep-an-eye-on: the question of fault, which follows naturally from whether a plaintiff is public or private. Since public officials have to prove that a reporter published false and defamatory statements knowing they were false, or with a reckless disregard for the truth, the litigation becomes a tortuous analysis of what the journalist did, said, and knew.

Private individuals need prove only negligence — a far easier standard for the plaintiff to meet, but one involving much the same invasive look into what the journalist did in preparing and publishing the story. The lessons learned from all this, derived from recent cases: multiple, on-the-record sources make for a piece that's easier to defend. Failure to follow up on important sources/documents/tapes that the reporter was aware of will inevitably require explanations, with sometimes unpleasant consequences in litigation. Also: journalists should always assume that all notes, outtakes, drafts, memoranda, or any newsroom conversations will be scrutinized in libel litigation. Too many journalists naively believe that those things are protected from disclosure by reporters' privileges. They may or may not be.

And always keep in mind: having an ax to grind is not the best starting point for an investigative piece that potentially might end in a libel claim. Reporters out to nail somebody, who express glee at having "gotten" the guy, may end up with one strike (or more) against them during a trial. Judges and jurors may feel that the journalist's avidity to prove his case made for lopsided logic, stacked facts, and prejudiced conclusions.

A final thought: journalists should have a working familiarity with libel law. It's an important tool of the trade. Remember that certain libel issues are treated quite differently from state to state. If you move to a news organization in another state, check out the law in the new jurisdiction. ■

. . . THE NET

GLOBAL PRECEDENTS

BY FRANK HOUSTON

You may not know — or think you need to know — that in the Netherlands it's against the law to offend the Dutch royal family, or that in South Korea a writer can be put behind bars for praising North Korea. American journalists have traditionally had little reason to worry over speech that foreign governments have deemed unacceptable. But in the Internet era, that may change. The judicial map of cyberspace is not yet drawn.

International publishing used to mean selling books, magazines, and broadsheets at faraway shops and newsstands, but today it may be as simple as posting an article or even a message on a Web site. "No one has really sorted out whether, because we're available on the World Wide Web, that constitutes international publication," says Jack Shafer, deputy editor of the online magazine *Slate*. "There will be precedents set country by country."

Even within the U.S., "it is unclear the extent to which someone who speaks on the Internet is going to be subject to jurisdictions other than where they write," says Charles Sims, a First Amendment attorney at the Proskauer, Rose firm. In the mold of a national magazine, any publication on the Internet essentially transcends state borders, and libel laws vary from state to state. But Sims and many others believe that "with respect to defamation, the law is at least as protective of journalists online as print or broadcast law is."

Some experts believe the law may be even more protective online. In the 1997 landmark case *Reno* v. *ACLU*, the Supreme Court held parts of the Communications Decency Act to be unconstitutional but left intact Section 230, which "provides very broad immunity" to publishers of online content, says the media lawyer Patrick J. Carome, a partner at Wilmer, Cutler & Pickering who has represented media defendants in online and traditional media, including AOL.

Section 230 shields any "provider or user of an interactive computer service" or "any information . . . system" from liability in defamation suits involving content created by others. It was cited by a U.S. District Court judge in Washington, D.C. in dismissing AOL as a defendant in the White House aide Sidney Blumenthal's continuing libel suit against Matt Drudge, although AOL had promoted Drudge's column and had a contractual right to edit him (which, in this case, it had declined to exercise). "The scope is very broad in terms of who is entitled to claim it," says Carome. "Most players on the Internet are likely to qualify for protection under 230 against liability for third-party content."

Further legal battles could test its breadth. Carome sees the immunity as equally applicable to online services like AOL and publications like *Slate* and *Salon*, and thinks the line might be divided between writers used on a free-lance basis (essentially Drudge's relationship with AOL) and staff members, for whose work publications would be equally responsible.

But "because it is so easy for a person harmed online to respond in kind, it has been argued that there is less of a need for the courts to come in with damage remedies," says Carome.

Though the question has yet to be addressed in court, what First Amendment attorneys involved in new media fear most is that the global nature of the Internet might allow foreign courts to claim jurisdiction over allegedly libelous speech originating elsewhere, including the United States.

"No other country in the world has our First Amendment, and none offers the kind of protection for speech that we have here," says Jonathan Hart, a libel lawyer who specializes in new media. "It may be in the economic interests of a publisher to take into account the least protective libel laws in the world, rather than relying on the protection of the Constitution. And that's scary."

Journalism is just one piece of a bigger legal jurisdiction puzzle created by the Internet. In July, the American Bar Association's Section of Business Law released

A defendant's right to a fair trial can trump a journalist's right to keep his notes private, or to protect a source

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the findings of its Global Cyberspace Jurisdiction Project, a study that examines "how regulatory agencies in the United States and abroad must change to adapt to a new world of electronic commerce that is not dependent on physical location," according to an ABA press release.

Abroad, the famously pro-plaintiff libel laws of Britain remain the most vexing for American media companies. In May, the House of Lords allowed a Russian tycoon to sue *Forbes* magazine in Britain, and in April a London jury slapped *The New York Times* and the *International Herald Tribune* with a libel verdict for an article alleging that a celebrity chef in England had used drugs in the past. Web sites may be considered just as international in scope as these print publications.

Another recent case illustrates that in the democratic realm of Internet publishing, free-speech protections may apply equally to journalists and nonjournalists alike, but only up to a point.

In 1997, a Cornell University graduate student, Michael Dolenga, was named in a libel suit filed in London by an English scientist, Laurence Godfrey, who alleged that Dolenga had posted defamatory messages about Godfrey on Usenet discussion groups. When Dolenga didn't show up to defend himself, Godfrey won a default judgment.

But there's an advantage in having no foreign assets: as was the case with Dolenga, a foreign judgment can be difficult to enforce. Plaintiffs can resort only to U.S. courts to enforce foreign libel judgments, and many experts are doubtful of their prospects. In one such case, Maryland's highest court stopped a British libel judgment from being enforced in the U.S. against a former British citizen who'd published allegedly defamatory statements in a letter to a British newspaper.

Writing in the Libel Defense Resource Center's 1999 Cyberspace Project, Kurt Wimmer, a partner specializing in new media at Covington & Burling, and a Harvard law student, Joshua Berman, note, "Even assuming valid jurisdiction, a foreign plaintiff may not, consistent with both international law, U.S. foreign relations law, and U.S. public policy, enforce an Internet libel judgment in U.S. court, so long as that judgment is inconsistent with the requirements of the First Amendment."

It may be little comfort to media companies with assets abroad, but for U.S.-based Web publications, that's good news. ■

Frank Houston is a Brooklyn-based writer.

. . . SUBPOENAS

RESIST, RESIST, RESIST



BY NEIL HICKEY

Thousands of times a year, reporters and editors around the country are hit with subpoenas to turn over notes and outtakes and to testify in cases where they're presumed to have information helpful to prosecution or defense. Newsroom lawyers advise their clients to fight subpoenas to the bitter end. Says Linda Lightfoot, executive editor of the *Baton Rouge Advocate*: "We don't turn over unpublished material." The paper scrupulously invokes Louisiana's shield law. On photo coverage of breaking news, Lightfoot has a simple strategy: "If we take twenty-five pictures and publish one, I throw away the other twenty-four negatives."

Many TV stations have a similar practice. At Tribune Broadcasting, in-house lawyer Charles Sennet says that the company typically declines to surrender non-broadcast tapes. In fact, says Sennet, the outtakes usually aren't available anyway. "You save what's been broadcast and discard the rest."

In Oklahoma City, attorneys for Terry Nichols — now standing trial for the 1995 bombing of the Alfred P. Murrah Federal Building — tried to acquire from every television station in town every foot of their coverage whether it had been aired or not."We estimated we had 3,000 videotapes representing 850 hours of material that would take 35 full days to play back," says Joe Hengemuehler, news director of KOCO-TV. The stations refused and the court agreed that the request was an undue burden.

Most journalists and lawyers we talked to agree it's usually okay to comply with subpoenas for material the public has already seen, read, or heard. For the rest, a bit of guile is often necessary. Example: NBC News once shot four hours of film on a story about California cops allegedly targeting blacks, and used roughly 45 seconds of it. All four hours was subpoenaed. NBC refused to turn the tape over, but company lawyers concluded they'd probably lose the case. The network's ploy? It beamed the four hours of (largely boring, useless) video to an affiliated station, thereby establishing that, at least technically, the material was seen — or might have been seen — by the public and thus could be surrendered without violating company policy.

Some newspapers have met similar demands for unpublished material by dumping it on their Web sites, thus making it public, rather than caving in under judicial pressure — a tactic that emphasizes their determination to defy all such probes.

Sometimes, though, a journalist can hit a brick wall, having exhausted all legal options. In June, J. Harry Jones, a *San Diego Union-Tribune* reporter, agreed to turn over unpublished notes from a jailhouse interview with the suspected killer of three people. Said Jones: "I have a family, and going to jail for a year or two would be too much to ask." Courts can rule that a defendant's right to a fair trial trumps a journalist's right to hold his notes private, including notes from — and the identity of — confidential sources.

A 1998 CJR article by Doug Underwood, an associate professor of communications at the University of Washington, triggered a civil defamation lawsuit by a group of reporters who had been laid off by the *Arizona Republic*. In the article, Underwood reported that the *Republic*'s then managing editor referred to the reporters as "fat, lazy, incompetent, and slow." The reporters sued Phoenix Newspapers, Inc., the *Republic*'s owner, and the editor for libel. (Neither Underwood nor CJR was named in the lawsuit.) The plaintiff reporters then subpoenaed Underwood's notes. He refused, but testified in a deposition about what was in them. The case is now on appeal from a court order that recognized a qualified privilege, but held that the plaintiff reporters' need for the notes outweighed the privilege. The reporters have continued to seek Underwood's notes and have argued that the courts should not recognize a qualified privilege in them. ■

Who Could Love This Place? Maybe Only a Journalist

BY RUSSELL WORKING

Payday does not come every month at a Russian newspaper — only when the ad revenue is sufficient and the publisher has not borrowed too much money lately from the safe. When the day arrives, there are no electronic deposits to your bank account, no editors wandering the newsroom distributing pay envelopes. Somebody dashes in and says, "They're paying salaries. Go, go, go, before they run out of money!" And everyone stampedes to beat the computer guys and cleaning ladies and publisher's driver. You line up at a tiny, barred window where an accountant with lipstick in her mustache counts out a month's pay, sometimes in coins. Then you stuff all the rubles in your pockets and a heavy-duty plastic bag and head back to your desk to finish a story on unpaid coal miners who are protesting by blocking the Trans-Siberian Railroad.

Never mind the irregularities. The chance to work at a provincial Russian newspaper was for me a stroke of amazing fortune — and also a deeply troubling education. In my three years as editor of the *Vladivostok News*, a tiny English-language biweekly published by *The Vladivostok*, the largest daily in the Russian Far East, I had the adventure of a lifetime. I covered everything from Mafia killings to attacks on villagers by man-eating tigers. And by the time I quit this spring to free-lance full-time in this port city on the Sea of Japan, I had gained a rare perspective, for a foreigner, on Russian journalism in the provinces.

Vladivostok is a city in a region where the government owns the only major printing press, where the journalists' union hands out liters of vodka on holidays but says nothing when the staff goes unpaid for three months, and where thugs assault reporters who anger the political bosses. My experience has left me pessimistic about Russia's democratic experiment — and about the prospect that an independent press will thrive here any time soon.

In January 1997, I arrived in Vladivostok, a city of 650,000 in Primorye, the finger of Russia bordered by China and North Korea. In the winter the sea freezes so thick that trucks drive on it, and fourteen-hour-a-day blackouts hit residential neighborhoods. My bosses provided me with an apartment and a typical Russian salary (it started at the ruble equivalent of $400 a month but dwindled to less than $150 after the 1998 fiscal crisis). I enhanced my income by free-lancing for Western media. Slowly, I began to learn the language.



The tiny English-language *Vladivostok News* could afford to be braver than its much larger parent, *The Vladivostok*.

Everybody knows that life in the former Soviet Union is drab, but the grime and poverty of provincial Russia were remarkable. Vladivostok's gray prefab apartment blocks resemble slum housing in America. Apartments tend to be clean inside, with VCRs, lacquered cabinets, and maybe a grapefruit tree growing in the kitchen, but in the stairwells the dogs defecate and the rats scuttle about. Throughout the Russian Federation, drunks seem to have reached a consensus that residential elevators were meant to double as urinals.

At our publishing complex, the landlord was fighting to evict Vladimir Shkrabov, a Communist editor who collected rent from some of the tenants, although he had no ownership rights (the building had once belonged to the Communist party). When a business weekly refused to pay up, Shkrabov chopped down its door with an ax and severed its computer cables. In an attempt to drive out the imposter, the real landlord cut off the water to the entire building for six months. Eventually we escaped by moving to our parent paper's new building, which our publisher financed in part by paying salaries months late.



NAZDRATENKO: AP WIDE WORLD; WORKING: VALENTIN TRUKHANENKO

Writer Russell Working, in the Russian port of Vladivostok on the Sea of Japan. Inset, the regional governor, Yevgeny Nazdratenko.

So what kind of foreigner — working by candlelight on his laptop late at night, deprived of bookstores with espresso bars — could love a place like Vladivostok? Maybe only a journalist.

As a former reporter for several American dailies, I found that a Russian newspaper is both a strange and familiar place. The computers run on pirated copies of Adobe Pagemaker and Microsoft Word, yet police scanners are illegal, and reporters rely on a call from drinking buddies in the police department to find out when a murder or car bombing has happened. At the *Vladivostok News*, we often got tips from Russian journalists who wanted to make sure that a foreigner covered stories in which reporters might be at risk from the authorities. Last fall, for example, a reporter for a national daily called after the police, loyal to the governor, had raided the office of an opposition candidate, arrested his campaign manager, and beat up his staff.

What felt strangest of all, in fact, was the invisible presence of the Primorye region's strongman governor in every newsroom.

Governor Yevgeny Nazdratenko, fifty-one, is a beefy former mining boss who has managed to consolidate his power through political muscle and use of the police and courts against his opponents. Since taking office in 1995, he has accomplished the seemingly difficult feat of helping to impoverish a region rich in natural resources that lies at the crossroads of the giant economies of Japan, South Korea, and China. A 1997 report by the Federal Security Service — the main domestic heir to the KGB — accused members of the Nazdratenko administration of demanding bribes and smuggling luxury goods through Chechnya in order to avoid tariffs in Vladivostok's port, as well as cultivating ties with killers and hiring mobsters to protect business interests and kidnap reporters. (The kidnappings, with beatings and torture thrown in, occurred in 1995, and were allegedly connected to the current vice-governor, Konstantin Tolstoshein, who has never been questioned about the matter).

The governor's office calls such reports political smears. Still, Nazdratenko brooks no criticism. He owns one television station and controls a second government channel. Most other newspapers accept cash in exchange for publishing his press releases verbatim, often disguised with reporters' bylines or as letters to the editor. The governor sues the few brave papers that try to report the other side of a story, and the courts seldom disappoint him. The governor and his allies in local government have sued the independent paper *Arsenyevskiye Vesti* twenty-two times in recent years. Nazdratenko alone has filed seven lawsuits against the paper, once for reporting that he had distributed 40 percent of the regional budget in secret, without any oversight. In late July, *Vesti*'s editor was jailed for five days without a trial, on charges of "petty hooliganism," because the paper printed the profane rantings of Deputy Governor Tolstoshein. (Tabloid-style papers routinely print profanity and have never been charged with a crime.)

"It's getting worse right now," says Andrei Kalachinsky, director of the Vladivostok office of the National Press Institute, a nongovernmental media organization. "When Nazdratenko defeated all his major political opponents, he started to put more pressure on the press, and journalists keep losing these lawsuits to Nazdratenko in the courts."

Few papers fight Nazdratenko's influence. On the contrary, most editors — who privately detest the governor — have cooperated in building his Brezhnev-style cult of personality. Last year, Nazdratenko announced he had won a $1 million "World Aristocratic Governor of the Year Award" from a hitherto-unknown society of French noblemen, and the local press hailed the international recognition of Primorye's leader. This February, local editors and producers threw Nazdratenko a birthday party. They presented him with a dartboard decorated with the face of a

political foe. And they sang a song about Nazdratenko, referring to him in the formal Russian manner, by his first and patronymic names:

> Yevgeny Ivanovich, attaboy.
> The opposition has been destroyed.

The *Vladivostok News* alone was free to cover whatever we wanted. This was not due to any great courage on my part — though it did take guts for my Russian staff, who did not have the protection of a U.S. passport, to call the mayor and a vice governor for comment on whether they ordered kidnapping and assaults. Rather, I suspect the governor's office thought a paper in a foreign language with a print run of 2,500 didn't really matter. (In October 1998, our print edition died, making us an Internet-only publication and, presumably, of even less concern to the authorities.) Only once did our publisher rebuke me, for writing an unflattering profile of Nazdratenko. As a punishment, my "vegetable money" — an under-the-table bonus that is not reported to the taxman — was almost eliminated that month. But usually, even my own bosses cared little what we published.

At times we even served as a pressure valve for our parent paper, the *Vladivostok*. One day in February 1998, a senior editor from upstairs dropped by with a tip. During a visit that week by Belarus's authoritarian president, Alexander Lukashenko, Nazdratenko had given his guest a tiger skin. There are perhaps only 450 tigers left in Russia, and it is illegal to hunt them, traffic in their parts, or transport their remains abroad. The *Vladivostok* had mentioned Nazdratenko's gift deep in a fawning story but insisted the pelt was accompanied by documents that somehow made it legal.

Now we heard a different story. "There were no documents," the editor said. "It was completely illegal."

"Why aren't you guys writing this?" our deputy editor, Nonna Chernyakova, asked.

"We can't," he said. "Bashkin" — the publisher — "wouldn't let us."

Alone among Vladivostok's media, we reported the story. Even the environmental prosecutor, who routinely seeks jail terms for poachers who kill tigers, wouldn't touch the matter. "I don't have the authority to interrogate the governor," he said.

The press response was more complicated in the case of Capt. Grigory Pasko,



a Navy journalist arrested in 1997 on treason charges after he reported on the dumping of nuclear waste in the Sea of Japan. Amnesty International adopted him as a prisoner of conscience. Local media covered the trial, but in ways that infuriated Pasko (he later sued our parent paper). One of Pasko's lawyers accused Nazdratenko of pushing the Navy to prosecute Pasko because the reporter had been investigating the alleged disappearance of Japanese funds intended to help Russia process its nuclear waste. But apart from the *Vladivostok News*, local media ignored these comments. In 1999, Pasko was convicted of unmilitary conduct and released after spending twenty months in jail. Given Russia's restrictions on the press, this was considered a victory.

Some media that defied the authorities suffered more physical pressure. Radio Lemma, an independent local station, persisted in interviewing critics of the governor on the air, despite a direct warning from Acting Mayor Yury Kopylov, a Nazdratenko appointee. One night last summer, Yury Stepanov, Lemma's editor, was walking home when he came upon a van blocking the alley. As he passed it, two thugs jumped out. They knocked him to the ground and began kicking him in the head and the chest. Then they tried to stuff him into their van.

Stepanov broke free and ran. Stumbling into to his apartment stairwell, he yelled for help, and his assailants retreated.

When I interviewed Stepanov, he was holed up behind the steel door of his apartment, unable to sit without groaning in pain. Two of his ribs were broken, he was suffering from a concussion, and his face was covered in bruises. Moscow papers covered the assault, but most Primorye media ignored it.

I hoped that the publicity about Stepanov in Moscow would make the thugs back off. But late in November, a month before last year's parliamentary and gubernatorial elections, the phone rang. It was Marina Loboda, then a reporter for the local edition of the national paper *Moskovsky Komsomolets*. "The mayor is shutting down Radio Lemma," she said. "Get over here."

Nonna, our deputy editor, and I dashed over and found the building surrounded by armed police. A handful of reporters from the national media were demanding admission to the building, but cops blocked our way. A young police lieutenant said he was compelled to act because of a fire hazard: the station was storing gasoline to run a generator. And why did it need a generator? Because the mayor had cut off Radio Lemma's electricity. Radio Lemma was silent for two months, until after the election.

This spring, the time came for me to leave the *Vladivostok News*. Over the past year, I have traveled to Japan, Mongolia, China, South Korea, and many parts of the Russian Far East to write free-lance stories. Editing a tiny Internet paper was beginning to seem like a hindrance.

I seldom cover Vladivostok politics any more. But in June, not long after a mayoral race marred by ballot-stuffing, I dropped by a large hotel to work out at the gym. In the lobby I ran across a group of reporters. I asked one of them what was going on, and she explained, "All the opposition mayoral candidates are holding a press conference to protest election fraud by Mayor Kopylov."

I hesitated for a moment and thought, "Where could I sell this? The Baltimore *Sun*? The *Moscow Times*? *The South China Morning Post*?"

Then it hit me: nobody cares. I headed on to the gym and spent an hour working out on the weight machines. ■

Russell Working decided to come to Vladivostok after meeting several Russian journalists, including a future girlfriend, when they visited his newspaper, the Tacoma News Tribune, *in Washington state. Prior to that, he worked in Oregon for the* Medford Mail Tribune *and the* Grants Pass Daily Courier. *His 1987 collection of short stories,* Resurrectionists, *won the Iowa Short Fiction Award.*

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For more information, or to apply for the 2000 awards, see our web site at www.kff.org or write to:

Penny Duckham
Executive Director of the Kaiser Media Fellowships Program
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Twelve journalists were awarded Kaiser Media Mini-Fellowships in 1999/2000, to research and report on the following issues:

Cassie M. Chew, health care reporter, Bureau of National Affairs, Inc.
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Dan Collison, independent radio and television documentary producer
Mentally ill ex-offenders-making the transition back to the community.

David Hanners, investigative reporter, *The St. Paul Pioneer Press*
Insights from the Minnesota Tobacco Documents depository into the tobacco industry's marketing and lobbying activities.

Tom Jennings, independent documentary producer
Medical privacy issues-balancing confidentiality of patients' medical records with treatment outcomes research to improve the overall quality health care.

Susan Leffler, independent special projects producer, West Virginia Public Radio Network
The impact of welfare reform on access to health care for the working poor in West Virginia.

Sharon Lerner, reporter and columnist, *The Village Voice*
Sex education in schools, and federal funding for abstinence-only education programs.

Julia Lobaco, national editor, *Vista magazine*
Hispanic health issues-providing accessible health care and prevention information for Hispanic audiences.

David Nather, health care reporter, Bureau of National Affairs, Inc.
Can managed care handle the challenge of caring for people with disabilities?

Dmae Roberts, independent documentary public radio producer
Teen mental health, from a teen perspective-depression, anxiety, suicide, violence, anger, and the effects on families, insurance coverage, incarceration, counseling.

Sabin Russell, reporter, *The San Francisco Chronicle*
U.S. trade policies on pharmaceuticals, and their impact on South Africa's efforts to access AIDS drugs.

Sally Squires, reporter, Health Section, *The Washington Post*
Using television to inform children about public health issues.

Bill Zeeble, reporter, *KERA-FM Radio,* Dallas
Diabetes, with particular focus on minority communities at highest risk.

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A J-School Manifesto

BY MITCHELL STEPHENS

A specter, as we like to say in manifestos, is beginning to haunt journalism education. It is the realization that some of the discipline's most cherished practices will have to change.

Academics have long whispered that journalism programs are too professional: just trade school. Journalists have long grumbled that some of them are too academic — filled with useless "theory."

However, a new, more interesting call for change is beginning to be heard. It became audible at New York University a few years ago and almost tore our department apart. Other top programs are producing their own versions of this critique and falling into their own debates. This is my version. I won't presume to speak for faculty elsewhere or even for my comrades in the party of change at NYU. But I also won't pretend that all the ideas here are original to me or to NYU. There is something in the air.

At issue is not whether journalism programs should teach professional skills or wax theoretical. Obviously, they should do a lot of the former and some of the latter. The question is how. My argument is that journalism programs have placed too much emphasis upon teaching "the basics" and not enough on advancing journalism.

The basics: Don't forget who, what, when, where and, if you can get it, why. Reporters should not accept gifts from sources. The attribution goes after the first sentence of the quote. A suspect must not be convicted in a news story. "Completely destroyed" is redundant. That extra phone call is always necessary. Such dicta have long been at the heart of an education in journalism. Attacks on them send, I know, shivers down spines.

And in a world where corporate pressures on "content providers" seem to be increasing and understanding of language and civic affairs decreasing, the argument for emphasizing the basics does have much to recommend it. Students should be sent out prepared to recognize, uncover, and communicate news — accurately and fairly. Journalism



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Too much emphasis on the basics, not enough experimentation

programs do serve a function by repeatedly insisting on the tried and true. But it is, in the end, a limited function.

A narrow focus on the basics leaves these programs, in manifesto language, enchained — unable to make more original contributions to journalism. We need a more advanced, more adventurous approach. Journalism education needs a heart transplant.

No discipline handles the juggling act between academic and professional concerns entirely smoothly, but many other professionally oriented programs do handle it differently. Journalism students tend to learn how to report by working — over and over again — on the easiest kinds of stories. That's not how it's done, for example, in law school.

"The cases students read," explains Anthony Townsend Kronman, dean of the Yale Law School, "are meant to introduce them to the fundamental principles of the subject, but the cases that are selected for study are cases that present the most excruciatingly difficult questions. It doesn't help to give them easy cases. They get pushed out to the frontier in every class they take."

Journalism is often taught, in introductory skills courses, as if many of the questions it raises had a right or wrong answer. However, law students, from the very beginning, "are taught to think of the opinions they are reading not as closed," says Kronman, "but only as the latest official utterance, subject to interpretation by lawyers and law students. Law students are invited, in other words, into active, argumentative dialogue with the judges who write these opinions, including justices of the Supreme Court."

In journalism programs students work primarily with the simplest, most formulaic forms of writing — forms most of their professors haven't used for years and, if truth be told, have no great desire to use again. At the Yale School of Drama, to choose another example from that university, students spend almost a third of their time on a rather complex and difficult variety of theater: Shakespeare. "We don't believe our students will go on to spend a third of their professional lives doing Shakespeare," explains Dean Stan Wojewodski, "but we believe it is very important that students engage on that level of imagination and challenge."

The model of journalism that still dominates our core courses is one that was practiced most enthusiastically at newspapers — mainstream American newspapers — mostly during one specific historical period: about two thirds of the way into the twentieth century (when journalism won some glorious victories and most of today's journalism school administrators were young enough to be inspired by such victories). Other kinds of journalism — practiced, say, in France or England, or at alternative publications, or at other times in American history — are generally men-

tioned, if they are mentioned, as mere curiosities. Architecture schools, art schools, drama schools, on the other hand, not only explore a tradition that is much broader — culturally, geographically, and historically — but they encourage experimentation with new methods, new forms. "We see ourselves," Wojewodski says, "as devoted to extending the boundaries of theater and moving the markers forward."

Such comparisons between disciplines obviously have their limitations. And I certainly don't mean to imply that no one else in the university drills students using basic exercises. (Acting students, of course, don't only do Shakespeare; law students have plenty to memorize and master.) It is the extent to which master's- and undergraduate-level journalism education has chosen to hide its head in this one version of "the basics" that strikes me as unusual, unnecessary, and wrong.

For journalism itself is hardly a closed, self-satisfied, static field. To do journalism today is inevitably to be involved in an ongoing, "active, argumentative dialogue," as Kronman put it, on the profession's purposes and performance. How is journalism to respond to widespread internal and external dissatisfaction with some of its current practices? How is journalism to take advantage of technological change? Boundaries are shifting. Whole forms of journalism are being created. Whole forms of journalism could die. Journalists today are often out on the frontier.

Yet journalism programs, ever the guardians of what was, have seemed content to hang back within established settlements. Yes, we all have added a couple of classes in digital journalism. Yes, we all have seminars or lectures in which the issues facing journalism are mulled over. Yes, there is some good, even great teaching going on. But our core courses often proceed as if there were one correct way of doing journalism, as if our mission would be complete if our students only knew the difference between robbery and burglary and could get the lead right.

It is easier to teach what we know — or think we know — than to teach what still needs to be figured out. It is hard to work the unconventional, the experimental into a textbook or onto a blackboard. And if we encourage students to escape formulas, we fear that we will no longer be able to hold them, or the profession, to standards. But journalism education must accept the risk. It must — manifestos mustn't mince words — change.

We have to inspire our students to achieve work that is very good, not just very solid. (And this goes for undergraduate as well as graduate students: if college students can read Nabokov in a literature class and Nietzsche in a philosophy class, they can and should be stretched and challenged in a journalism class.) We have to find more ways to get the ferment of this astounding time in journalism into our courses. We have to give our students the privilege of participating in the struggle to determine what journalism could and should be.

Boundaries are shifting. Journalists today are out on the frontier.

NYU has begun to take some steps toward rethinking its journalism curriculum. It hasn't been easy, but we're still at it (with the discussions growing less and less heated). Other journalism programs are, too. The most direct attack on the hegemony of the basics has been launched at Stanford, which has gone so far as to skip basic coursework in reporting and editing in its master's program in journalism. (New students are now expected to arrive with some background in the field.) "It's not that we don't appreciate the importance of basic skills," says Ted Glasser, who directs the journalism program there. "It's just that we want our program to do more — and we're going to focus on the 'more.'"

Here is a quick, preliminary sketch of how journalism education might (while still introducing students to reporting and writing) do more:

■ Mix theory and practice. It is not enough for students to sit in a seminar and discuss critiques of journalism; they have to be given opportunities to respond to those critiques in their work. We have begun experimenting with this at NYU in a series of undergraduate honors courses — where students can, as they recently did in a course taught by Pamela Newkirk, study the problems of press coverage of an area like Harlem and then be challenged to do a better job themselves.

■ Let students explore. No major newspaper in the country restricts itself to the inverted pyramid, and news, as we've noticed, is now also being communicated by media other than newspapers. We know, therefore, that we have to open up our introductory courses to serious alternative approaches. Why can't students be asked to experiment with a variety of other writing — or video or digital — styles: not just features but essays, first-person narratives, opinion pieces, cinema-vérité reportage, fast-cut images, and multimedia and interactive forms? Why can't students read about these various styles, examine the best examples of them, try them, and then debate their merits? Couldn't the importance of proper attribution and the difference between "which" and "that" still be imparted along the way?

■ Honor a broader tradition. At NYU we now require all graduate students to take a readings course in great journalism. And it is significant how little of that great journalism — by Richard Harding Davis, Ben Hecht, Ernest Hemingway, Dorothy Thompson, John Hersey, A. J. Liebling, James Baldwin, Joan Didion, et al — employs the formulas insisted upon in reporting 101. This course — specifically designed to inspire students to stretch their styles and raise their sights — functions as a kind of anti-basics. It also serves to claim this remarkably searching and well-crafted nonfiction writing for journalism — something journalism programs have been oddly reluctant to do.

■ Look deeper. The image of the go-anywhere, write-on-anything reporter retains a certain attraction. But certainly there is room for an alternative model: one in which students study a subject deeply — in a single course or a whole program — while they are reporting on it. We have added three such programs on the master's level at NYU — in science and environmental reporting, cultural reporting and criticism, and business and economics reporting. And we are not alone in setting out in this direction.

■ Encourage experimentation. Berkeley's Graduate School of Journalism currently has, says Dean Orville Schell, "a very active digital documentary program." When I note that there is currently no such thing as a digital documentary — a documentary produced for the Web — he responds, "That's right. We're trying to invent it. Not having come from the world of journalism education," Schell explains, "I sometimes find my ignorance has served me well.

The Place to Stiffen Journalistic Spines

BY HARRY ROSENFELD



MANIFESTO II

For many of my working years in newspapers, I saw that the editors who did the hiring, in time including myself, had little regard for a journalism education.

J Schools, especially on the undergraduate level, were looked down on by the large papers I worked at as trade schools. Instead of a journalism degree's giving a job applicant an advantage, those with an English or political science major were preferred.

In my twelve years at *The Washington Post*, variously heading up the foreign, local, national, and weekly review and book departments, there wasn't a ban against hiring journalism grads. There was, however, condescension that otherwise worthy people could have made better use of their college years.

Journalism school grads in those years appeared to be the clear choice of smaller papers that did not care to expend the resources to train newcomers. They were seeking young people who could (then) operate a typewriter and who arrived programmed to grind out stories from day one. All the necessary formulas with which to construct any stories they would likely have to report and write had been absorbed in journalism school, including the number of words in a sentence and what a truly useful attribution "police said" was.

However accurate or false this attitude was, it is time to abandon it. Journalism schools may in fact be the only places to consistently inculcate basic values in a world of troubling change.

There is nothing new in newspaper owners focusing on making a profit. But today's constantly shifting parameters of the world of communications offer previously unimaginable opportunities for scoring big bucks while also assuring these owners their stake in whatever the future brings.

At the same time, they are scared to distraction by the potential of losing their once sure and secure place by the thundering pace of technological wizardry that is redefining communications.

Their well-documented remedy has been to increasingly leverage the editorial mission to help out business interests — most visibly lately at the *Los Angeles Times* but commonplace to some degree throughout the media world.

That constitutes a growing kinetic pressure on the newsrooms; with the blurring of roles, the newsroom culture may no longer be as supportive of traditional values as it has been.

This is the time, therefore, for journalism schools to step into the breach and do what needs doing: to prepare young people entering the field to understand those values that have brought credibility to the American press unequalled by any other nation.

Journalism schools are positioned to do more than expose their students to the correct precepts and practices. They should emphasize throughout their period of instruction the body of ethics that ought to govern newspapering. The students need to learn to distinguish between factuality (if truth is too embarrassingly grandiose and elusive) and puffery. They need to be instructed in the essentialities of fairness and impartiality. They need to comprehend the necessity of accurate attribution and develop appreciation for the accountability that accompanies the often-awesome powers that come with the ability to publish.

By the time they are graduated, journalism students should understand that their ultimate self-interest, the purpose that encapsulates what they will do for their livelihood, is — in the words of the Committee of Concerned Journalists — ". . . to provide citizens with accurate and reliable information they need to function in a free society."

Stressing instruction in the history of journalism in America — in depth and not a survey course — would provide the students with the context for the ethics they would take with them into the work place.

If good luck holds, these values will be honored at the newspaper at which they get a job, and so their experience there will enrich the quality of their work. If they are not so blessed, and discover an indifference to ethics, then they will have been sufficiently prepared at college to do their work well and thereby help to upgrade the premises.

They should have been educated to distinguish between journalistic rights and wrongs. Most importantly, they should have been schooled to stand up to coercion on behalf of the expedient and the mediocre. In this way, J Schools could stiffen the ethical spine of newspapering at a time when that is very much needed.

Harry Rosenfeld is editor-at-large at the Albany, New York, Times Union. *He directed Watergate coverage as metropolitan editor at* The Washington Post .

You don't even know you're stepping over the line. What makes sense to me is to be out there on the raggedy raggedy, trying things."

Not every journalism program, not every journalism professor will be up to such challenges. We may need some new journalism programs; we will need some new journalism professors.

Nor is it clear that all news organizations are waiting for journalists who are inclined to question and experiment. After he announced that his goal was to "produce thoughtful journalists," Columbia's dean, Tom Goldstein, reports that he received a letter from someone at a major news organization stating, "The last thing we need is thoughtful journalists." Oh.

But as my colleague Susie Linfield has pointed out, drama students trained in Shakespeare can also figure out, if they have to, how to act in soap operas. Let's aim high. Maybe graduates of more adventurous journalism programs will eventually help create more adventurous news organizations. We have nothing to lose but our irrelevance. ■

Mitchell Stephens, a professor of journalism and mass communication at New York University, is the author most recently of the rise of the image the fall of the word. *Some of the ideas in this article grew out of conversations with Ellen Willis, Jay Rosen, David Dent, and other colleagues.*

Is this a local or "foreign" story?



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An Eminem Exposé: Where Are the Critics?



BY MICHAEL HOYT

Michael Hoyt (mh151@columbia.edu) is CJR's executive editor.

At a music store the other day I saw something unusual: a clerk refusing to make a sale on moral grounds. A skinny kid of about twelve wanted Eminem's latest, *The Marshall Mathers LP*, but the clerk was telling the boy's mother that he wouldn't sell that CD to anyone under sixteen. She looked puzzled when he explained why. *Who knew?* she seemed to say.

Who indeed? I have no idea if this woman pays attention to the news. But even if she does, how much help does she get?

Eminem (Marshall Mathers is his given name) serves as a useful spark for a discussion about artistic freedom and critical responsibility. He is a crossover white rap artist, the music phenomenon of the summer. He was a crossover in another sense too. While some rappers are foul, Eminem is vile. It's not a question of bad language, but the depth of his cynicism and viciousness. Nothing is sacred. Not his mother (murder fantasy). Not his sister (gang rape fantasy). Not his wife, Kim (murder fantasy in which we hear the sound of her choking and the touching lyrics, *Don't you get it bitch, no one can hear you? . . . BLEED BITCH BLEED . . .*)

I'm toning it down here, believe it or not. The hatred of women in the lyrics is breathtaking. Eminem is a manly man, of course, and despises homosexuals too. *My words are like a dagger with a jagged edge/That'll stab you in the head/Whether you're a fag or a lez.* It was strong protests from gay rights organizations that finally got some attention paid this summer to the fact that the CD, four million sales and climbing, was beyond obscene.

Eminem and his producer, Dr. Dre, create a compelling sound, and that seems to be how they get away with it. That, and a nice boost from many of the nation's music writers. The critics couldn't help but notice the words, but most of them found a way to make them secondary:

- "Mainly, though, Eminem is simply exercising his creative impulses — putting on disc all the forbidden thoughts and scandalous scenarios that accompany adolescence and just watching the fallout . . . ." — Robert Hilburn of the *Los Angeles Times.*
- ". . . when Eminem is sticking his raised middle finger up our noses, he's having so much fun that you can't help but laugh — even as you're horrified." — Alona Wartofsky, of *The Washington Post*, who informs us that an objectionable album isn't necessarily a bad one.
- "It's mean-spirited, profane, shocking — and actually quite entertaining if not taken too seriously." — Victor Barajas of *The Arizona Republic.*
- "While his content may seem largely indefensible in the modern age, his skills are indisputable . . . . If you like Eminem, you now have eighteen more reasons to like him. If you don't — he really doesn't care." — Wendy Case in *The Detroit News.*

And so forth. *Rolling Stone* gave *Marshall Mathers* a four-star lead review. *Newsweek* declared that Eminem was "arguably the most compelling figure in all of pop music." MTV fell at his feet. So the discussion about what was in the lyrics, a necessary and valuable moral debate about a major cultural phenomenon, was extremely limited. The critics, not to mention most of the rest of the press, missed an opportunity.

This was noticed. In an angry letter to the editor of the *Los Angeles Times*, a Thousand Oaks resident, Paul Reisser, dared the paper to "send a normal adult" to review concerts of the likes of Eminem in the future. Michelle Malkin, in an op-ed piece in *The Detroit News*, argued that Eminem would soon self-destruct, but that "the real threat to our cultural health" would remain in place: "the entrenched media intellectuals, lounging backstage with lattés and laptops in hand, who sanction garbage as art, expletives as entertainment, and violent perversion as lyrical poetry."

In an excellent column in *Salon*, Eric Boehlert made the case that music writers are so afraid "to give an inch to the Bill Bennett moralists of the world" that they champion the Eminems of the world. "By defending and celebrating the likes of Eminem, while willingly turning a blind eye to his catchy message of hate, music critics continue to cheapen their profession," Boehlert wrote. "They're also lowering the bar to such depths that artists will soon have to crawl to get under it."

I would extend that argument to movies and other cultural forces. Critics are so afraid of being uncool that they are no help to that mother in the record store. Eminem and his ilk have their First Amendment right to spew their poison. The critics have the right, and I would argue the duty, to sound the warning bell when they do.

So do the rest of the media, the news departments that also missed the significance of the Eminem event. The economy is supposedly wonderful, but people are working hard and it is difficult, even if they do have time, for them to analyze all the cultural air that their families are breathing. Some people flat don't care. But most do, and they might appreciate more help from their press. ■

The Age Factor I: How Gray is *Your* Newsroom?



BY NANCY MAYNARD

Nancy Maynard is the former co-owner and publisher of *The Oakland*, California, *Tribune*. She has covered domestic policy for *The New York Times* and education for the *New York Post* and has served as chair of the Freedom Forum's Media Studies Center. This is adapted from her report, *Mega media: How Economic Forces Are Transforming the News*, which was published in June with the assistance of the Freedom Forum.

In the rankings of top twentieth-century news coverage, few stories rate higher than Edward R. Murrow's 1940 CBS radio reports of the bombing of London. Media historians also highly rank Bob Woodward and Carl Bernstein's early-1970s Watergate coverage for *The Washington Post* and free-lance reporter Seymour Hersh's 1970 dispatches documenting U.S. military atrocities at My Lai in Vietnam. Each story carried great historic importance. And each came from brash young reporters. Underscore young: Murrow was thirty-one, the senior member of the "Murrow boys" who built up CBS News in the 1950s; Woodward and Bernstein were in their late twenties; Hersh in his early thirties.

Ever since Ben Franklin apprenticed as a teenage printer the news business in America has been the province of energetic young journalists, supervised and sometimes reined in by gruff, jaded elders. But a funny thing happened on the way to the information age — at least in the traditional media. The gray-haired set has captured the news business. This generational domination is far more complete than gender or even racial gaps, and it may be a factor in young adults' news consumption patterns and the shrinking audience for traditional news.

The proportion of professional daily newspaper staff members younger than twenty-five dropped from 10 percent in 1988 to 3 percent in 1998. The youth census is better in television news, although many anchors at large urban stations have kept those seats for twenty years or more. The best TV example may be the staff of *60 Minutes*, whose correspondents range in age from the mid-fifties to low eighties.

Why the change in staffing patterns? Among the many reasons:

- Reporters are better educated and entering the job market later in life.
- A news career is less attractive for bright young people when traditional media jobs offer low starting salaries but Internet businesses offer big salaries and other incentives.
- The modern two-career family makes it more difficult for people to move, keeping incumbents in jobs longer.

Baby boomers, now entering their forties and fifties, constitute a gigantic population lump in newsrooms. Meanwhile, their readers and viewers are also aging. The Radio and Television News Directors Foundation documented this in a 1997 report, "Generation X and the News," finding that:

- Viewers of network evening newscasts and Sunday morning talkfests have an average age approaching sixty.
- Those older than fifty watch network news an average of 3.2 days a week, compared with 1.9 days for those younger than thirty.
- Fewer than 30 percent of adults under twenty-five said they "read a newspaper yesterday," compared with nearly 70 percent of people over fifty.
- Those born after 1964 have had significantly different life experiences shaping their media habits than those born before. And their increasingly productive, fast, and mobile life-styles — involving more single-parent households or families where both parents work — allow less familial time at home to pass on traditional news habits.

RTNDF documented a generation of adults who never adopted the habit of watching evening news. Why should they? In many ways, the evening news experience is an artifact from a time when families looked and behaved quite differently. So network-news audiences, already down to one-third of the adult population, may decline further.

Reader and viewership numbers tell us that young people do not engage traditional news media in the numbers their parents or even their older siblings do. These patterns will not change with maturity. Research and experience show that over the past two decades, consumption of traditional news media has not increased as young adults have aged. "Generational replacement" is a dead concept for daily newspapers and network television.

Some news organizations have recognized this and tried to remedy it. For the most part, they have failed. Others have given up trying to figure it out beyond token offerings to the young: a few columnists; a weekly entertainment section delivered separately; a Web site tethered to the media mothership. And other Band-Aids.

They would be wiser to think about larger questions: What is the connection between the graying of the traditional newsroom and the diminishing appeal of news to the young? What does the generation gap mean for the future of news? Who are the Ed Murrows of the digital age? ■

The Age Factor II: I'm Gen-X: Hire Me!



MAURICE TIMOTHY REIDY

Maurice Timothy Reidy, a former editorial assistant at *Commonweal* magazine, wrote this hypothetical letter before being hired by the young-thinking *Hartford Courant*.

Mark Whitaker, Editor
Newsweek
New York, New York

Dear Mr. Whitaker,

Let me get right to the point. *Newsweek* needs some help. You know it and I know it. First off, you're way behind that other newsmagazine in circulation. And second, who needs to read a newsweekly when you can get all of your news right off the Internet as it happens? So what can you do to fight lagging circulation and fend off the Internet revolution? Well, that's where I come in.

My name is Maurice Timothy Reidy and I am a recent graduate of the Columbia University Graduate School of Journalism. I know what you're thinking: "Big deal!" True enough, but as it happens I'm also a hip, irreverent member of that ever-elusive Generation X. What your magazine needs is someone like me to write a witty, occasionally offensive column about whatever the hell I want. I mean, come on, how do you expect to bring in the young readers with George F. Will (snooze!) and Anna Quindlen (shouldn't she be working over a script or something?)

Take a lesson from *Time*. They give twenty-eight-year-old Joel Stein twice as much space as that old geezer Calvin Trillin. He writes about things young people want to read about — like getting drunk at weddings or why he hates dogs, not tedious stuff like presidential politics or foreign elections.

As a *Newsweek* columnist, I could bring some much-needed attitude to the issues of the day. Here are some ideas:

On Campaign 2000
Who will I vote for? Bush or Gore. Who cares? I probably won't vote at all. The real question is: "Who wants to marry a Gore daughter?" I sure do.

On China
Should China have been allowed into the World Trade Organization? What will free trade mean for U.S. workers? While most columnists will be tackling these dull subjects, I'll be addressing the real issues, like where is the best place to get good Chinese? My vote's for Hunan Balcony on Broadway.

On Elián
The boy's gone back home. Good news for Castro — bad news for me. No more shots of that sexy cousin of his. Forget the boy, Marisleysis. Give me a call. It's time you hung out with someone your own age.

On Guns and Moms
Two hundred thousand moms storm Washington to protest gun laws. No story there. The real story is with the main Mom at the event: Rosie O'Donnell. Three kids and no husband. So who's the Dad? I hope it's not David Crosby.

On Global Warming
I really don't get this one. I didn't watch Leo's interview with the president. Maybe I could set up an interview with Leo, though, and ask him if he could get me into Veruka.

On Hillary's Senate Race
Will she win? Who knows? I'm just waiting for Hillary to host *Saturday Night Live*. That episode where Rudy hosted was classic — especially the skit where he dresses up like a woman. Do you think they can get Hillary to dress like a man?

On the Microsoft Breakup
Speaking of breakups, I've been having problems cutting the cord with my girlfriend. Every time I bring the subject up, she gets all upset and well, before you know it, I'm apologizing.

On the Human Genome Project
So we've mapped the human genome. Billions of dollars and decades of research. And are we really any closer to a cure for a bad hangover? Back to the drawing board, guys.

On John McCain
I didn't really follow the whole McCain thing, but I did hear he was a Vietnam vet. So here are my top five Vietnam war movies: *Apocalypse Now, Platoon, Casualties of War, Full Metal Jacket,* and *Forrest Gump* (a stretch, I know, but what a soundtrack!).

Clips and résumé are not included since I haven't had time to put a résumé together and I don't really have any clips. But as I see it, you don't really need any journalism experience to write a column like this. Just ask Joel Stein. "Don't get me wrong, I don't think I am a real journalist . . . ," he recently told *The New York Times*. "I feel like I am, well, whatever we all are now: I am a celebrity journalist." A celebrity journalist. That's what you need. And I'm your man. Call me at home at (860) 344-1941. I have a pretty cool answering machine message.

Regards,
Maurice Timothy Reidy ■

Shilling for Prime Time: Can CBS News Survive *Survivor*?



BY LAWRENCE K. GROSSMAN

Lawrence K. Grossman, a former president of NBC News and PBS, is a regular columnist for CJR.

Television and television news have entered a terminal state and reached their "final period of decadence," a former NBC News president, Reuven Frank, wrote in the May/June issue of *The New Leader*. There's plenty of evidence lately to suggest he may be right, at least about network news.

On CBS News's *Early Show* this summer, I saw Bryant Gumbel give the bum's rush to a major story, the Supreme Court's controversial decision permitting the Boy Scouts to exclude gays, and then spend what seemed to be an eternity chatting with the sex specialist Dr. Ruth Westheimer about whether two island castaways on CBS's hit show, *Survivor*, had had sex with each other. It was a trivial and embarrassing discussion for an accomplished and intelligent news anchor to be stuck in.

There seems to be no limit to what CBS News will do to shill for the network's prime time "reality" entertainment shows in the vain hope that their popularity will rub off on its offerings. *The Early Show*'s senior executive producer, Steve Friedman, boasted to *The New York Times*'s Bill Carter, "We'll have four of five days when we're dealing with either *Survivor* or *Big Brother* . . . . When you get a show that everyone's talking about, that's nirvana. We're in television nirvana right now."

CBS News's *48 Hours* also got into the TV-nirvana act, devoting a whole hour to the *Survivor* promotion phenomenon. Fittingly, Dan Rather opened the July 5 broadcast with the query, "Is there anything people wouldn't do for fame?" — the appropriate question for CBS News management itself.

To capitalize on *Big Brother*, which CBS thought would be a megahit but wasn't, CBS newscaster Julie Chen was chosen as the voice of the prime time program. She also conducted the first interviews on *The Early Show* with the participants the morning after *Big Brother* ran. And she hosted a weekly prime time interview show promoting the series. Julie Chen's reputation as a serious CBS News presenter will take a long time to recover. So will the once proud reputation of CBS News itself.

There's nothing new about network morning news shows touting prime time entertainment fare. But nothing in memory matched CBS News's promotional blitzkrieg. Neither Friedman nor CBS News's president, Andrew Heyward, seemed at all embarrassed by the extent to which they rode on the entertainment division's coattails. With *The Early Show* in ratings trouble, Heyward called the effort "an experiment well worth taking on."

The decadence quotient in TV news keeps growing, and not only at CBS. This summer, viewers of ABC News's *Good Morning America* got a good whiff of that news division's current priorities when the show abruptly cut out of an interview with presidential candidate Al Gore to move on to a story on eyeliners and eyebrow treatments. *GMA* assured viewers, who may have been puzzled by its ham-handed treatment of the vice president, that Gore could be seen elsewhere on TV at other times. Earlier, ABC News caught flak for assigning the actor Leonardo DiCaprio to interview President Clinton for its prime time news hour on Earth Day. Needless to say, ABC's regular White House correspondents had choice words to say about that editorial casting.

Perhaps on the theory that if actor DiCaprio can play environmental correspondent on a prime time newscast it's okay for TV journalists to try acting in the movies, a *60 Minutes* correspondent, Steve Kroft, showed up in Woody Allen's frothy feature, *Small Time Crooks*, playing (what else?) a TV newsman. Members of Washington's hard-bitten press corps, also infected by the show-biz bug, were cast as journalists for the movie version of Jim Lehrer's novel about a scandal-plagued presidential race. Lehrer's work of fiction, *The Last Debate*, portrays reporters as piranhas, which didn't for a moment deter Al Hunt, Paul Gigot, Eleanor Clift, Robert Novak, Fred Barnes, Mark Shields, E.J. Dionne, and others from taking time off from their work in the news capital of the world to moonlight as actors. Fortunately, in the movie they play only themselves. Lehrer, it should be noted, declined the opportunity, thereby preserving his dignity and journalistic reputation. "The only thing I know about movies is how to turn them on in the VCR," he told *The Washington Post*'s Howard Kurtz.

Reuven Frank concluded his essay on TV's "final hours" with the prediction that the logical and perhaps climactic next step to ratchet up ratings of the networks' "reality" shows will be to televise executions, live if possible, in prime time. Such a series would be designed to capitalize on "the irrefutable audience appeal of seeing someone die." Ghoulish as it

seems, that's not such a farfetched idea. Years ago, the San Francisco public television station KQED, arguing the public's right to know, sued for the right to televise an execution. The station eventually dropped the effort, never saying whether it had intended to schedule an execution during pledge week.

Statistics suggesting that TV news as we know it may be coming to an end were released recently by the Pew Research Center. Its latest biennial survey of the national news audience found that increasing numbers of people are turning away from TV news in favor of Internet news. Only 55 percent reported having watched news or a news program on TV "yesterday," down from a high of 74 percent in 1994. Since May 1993, the nightly network news audience has been cut in half, which helps explain the sense of desperation (and decadence) that afflicts network news today. Worse, Pew found that growing numbers of Americans are losing the news habit altogether, while those who watch TV newscasts increasingly do so with remote control in hand, ready to zap stories they are not interested in.

Is there any sign of hope? Well, in Chicago, at one time a forerunner of television programming trends, the local CBS-owned station decided to head in exactly the opposite direction from its CBS News parent. To solve its local 10 P.M. news ratings problem, WBBM cut out all of the usual local gimmicks and glitter. Gone are the loopy anchor chatter, weatherman banter, sports hype, and tabloid investigative reports. Led by a local news pro, Carol Marin, WBBM is going back to basic, solid, sound news reporting. Marin, the heroic figure who quit Chicago's WMAQ in disgust when the NBC-owned station signed the notorious talk show host Jerry Springer as a commentator, explained WBBM's new approach to the news: "I think we had lost our way, and we disappointed a lot of people who counted on us. We stopped telling you things that were particularly important and started just telling you anything that we thought maybe offered you a little bit of eye candy." Now, WBBM is offering Chicago the news straight and serious. Let's hope it works. The good news is that somebody is trying it. The bad news is that what WBBM is doing is considered to be such a daring and radical departure from the norm. ■

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Front-page Ads and Other Supposed Threats to Credibility



BY GENEVA OVERHOLSER

Geneva Overholser (genevaoh@aol.com), a syndicated columnist for The Washington Post Writers Group, writes regularly for CJR about newspapers. Among positions she has held are editorial writer for *The New York Times*, editor of *The Des Moines Register*, and ombudsman for *The Washington Post*. She also served nine years on the Pulitzer Prize board.

Credibility, we newspaper people like to think, will be our salvation.

In the vast, uncharted sea of new media, our work will be valued because this quality distinguishes it from all the rest — credibility. Acquired by huge corporations, newspapers will be more than just another product because people seeking reliable information will value us above all — for our credibility.

For a craft that puts so much stock in credibility, however, we're faulty at protecting it. Not that we don't fret about it. Indeed, we react with loud national fits of outrage to developments we perceive as undermining our credibility. But we take our stands over odd issues, it sometimes seems to me — meanwhile leaking credibility like a sieve on more important ones.

For example, one thing we know is crucial to our credibility is independence from commercial pressures. The public must have confidence that our reporting grows out of our commitment to accuracy and fairness — not someone's agenda for financial gain.

Now, if you judge by decibel levels, one of the greatest threats to this kind of independence today comes when a newspaper places an advertisement on page one.

Never mind that many fine newspapers — a great many abroad, *The New York Times* at home — have long had ads on their front pages. Never mind that no wall is breached, no news polluted. Such a hue and cry arises that it seems we must surely believe that one more paper has made a pact with the devil.

But isn't our indignation misplaced?. Having an ad on the front page may look tacky. It may take away newshole. But it's not corrupting: It's straightforward, not deceitful. The public likes ads. They also like news, of course. And they want clarity about which is which. Beyond that, our conventions about where ads appear are just that: our conventions. Protecting them may suit our fancy; it doesn't maintain our credibility.

Meanwhile, we behave in ways that do raise public concerns about commercial influence. We have "issue" ads packaged to look like news, and "advertorials" whose authorship is vague. We report scantily on ourselves as a business. And more than a few of us pull punches when it comes to reporting something our owners or our advertisers might not like — as a recent survey in this magazine confirmed.

No wonder then that the public has qualms about our commercial independence. As the American Society of Newspaper Editors notes, people a dozen years ago felt that the balance between journalism and business was about right. Now, ASNE adds, "Research suggests people have questions about what newspapers base their decisions on," with 63 percent pointing to "the profit motive" as "often improperly influencing" reporting.

They didn't get that idea from seeing ads on the front page.

Then there is another time-honored element of credibility, independence from sources. We all profess to operate according to that revered philosophy of reporting "without fear or favor." But do we?

Last May, *The New York Times*, *The Wall Street Journal*, and *The Washington Post* accepted a deal from an airline publicist: They got exclusive details about a big story, so long as reporters promised to make no other calls for comment: the airlines didn't want any balance in the story. And the three newspapers accepted.

We are especially adamant about freedom from any kind of government manipulation — a fervor that can drive us right into the arms of *other* sources. Thus did some Washington reporters lose their skepticism during the Monica Lewinsky scandal, and allow themselves to be tools of the principal actors, — particularly (though not exclusively) the prosecutorial side. The thirst for leaks, the unbalanced use of information from those leaks, and the widespread embrace of anonymous sourcing were corrosive. Indeed, news from the trial of Ken Starr's spokesman, Charles Bakaly, would indicate that some may have gone so far as to cooperate even in deceiving the public about whether individuals had *been* sources.

We are supposed to be the public's eyes on those in power. After the Lewinsky scandal, can the public's faith in our ability to keep an eye on prosecutorial abuses remain as strong?

On and on we in the media go, taking righteous stands just out of kilter from where they should be. We're all atwitter if Leonardo DiCaprio interviews the president: an appalling blurring of entertainment and news. Compared to what? The public thinks: the television news we see every day?

Too often it's clear that what we're protecting is not our principles, but our egos. Or our ability to get a story first.

We're protecting ourselves.

But the only way really to protect our credibility is to hold ourselves accountable to the public. After all, credibility isn't about what we think, it's about whether readers believe us. We've got to bring our outrage into better alignment with our impact. ■

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOAN RYAN, JIM TUNNEY, ARLIE RUSSELL HOCHSCHILD, LYN HEJINIAN, and RONALD SILLIMAN, all individuals, and on behalf of all those similarly situated,
Plaintiffs,
vs.
CARL CORPORATION, a Colorado corporation, individually and doing business as THE UNCOVER COMPANY; THE UNCOVER COMPANY, a partnership; KNIGHT-RIDDER INFORMATION, INC., a California corporation; THE DIALOG CORPORATION, a foreign corporation; and 966 CORPORATION, a Colorado corporation,
Defendants.

Case No. C-97-3873 - DLJ

SUMMARY OF NOTICE OF PENDENCY OF CLASS ACTION SETTLEMENT

TO: ANY POTENTIAL MEMBER OF THE SETTLEMENT CLASS, THAT IS, ALL AUTHORS WHO

(1) AUTHORED OR CO-AUTHORED A LITERARY WORK THAT WAS CREATED OR FIRST PUBLISHED AFTER DECEMBER 31, 1977; AND

(2) WHOSE LITERARY WORK WAS REPRODUCED OR DISTRIBUTED BY THE UNCOVER COMPANY AND/OR UNCOVER, INC. ("UNCOVER") OR ITS PREDECESSORS BETWEEN OCTOBER 22, 1994 AND JULY 12, 2000; AND

(3) WHO RETAINED THE FUTURE RIGHTS TO PUBLICATION OF THE LITERARY WORK.

THIS NOTICE IS GIVEN TO INFORM ALL POTENTIAL MEMBERS OF THE ABOVE-DEFINED SETTLEMENT CLASS OF A PROPOSED SETTLEMENT OF LITIGATION. PLEASE READ THIS NOTICE CAREFULLY AND IN FULL. IF YOU FIT THE ABOVE DEFINITION YOU MAY BE A MEMBER OF THE SETTLEMENT CLASS.

IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS YOU WILL BE A "SETTLEMENT CLASS MEMBER" IF THE CLASS IS CERTIFIED FOR SETTLEMENT PURPOSES AND THE SETTLEMENT IS APPROVED BY THE COURT. "SETTLEMENT CLASS MEMBERS" WILL BE GIVEN CERTAIN RIGHTS AND MONETARY BENEFITS IN EXCHANGE FOR GIVING UP ALL CLAIMS THAT COULD HAVE BEEN MADE IN THIS ACTION OR IN A SIMILAR ACTION.

IN ORDER TO RECEIVE MONETARY BENEFITS UNDER THIS SETTLEMENT, YOU WILL BE REQUIRED TO SUBMIT A CLAIM, ON OR BEFORE OCTOBER 27, 2000. IN STRICT ACCORDANCE WITH THE PROCEDURES DISCUSSED BELOW.

NOTICE IS HEREBY GIVEN, pursuant to Federal Rule of Civil Procedure 23(e) and the Order of the U.S. District Court for the Northern District of California dated July 12, 2000, that a hearing will be held before U.S. District Court Judge D. Lowell Jensen at 1301 Clay Street, Oakland, California at 3:00 p.m. on November 9, 2000 ("the Settlement Hearing") to determine whether the Court should certify the above-defined Settlement Class for settlement of the Action; whether the proposed settlement of the Action (which is on file with the Court and is available on the UnCover class action settlement website (www.uncoversettlement.com)) is fair, reasonable, adequate, and in the best interests of the Settlement Class Members; whether a final judgment should be entered and the Action dismissed; and whether the application for payment of attorney's fees and expenses should be approved.

I. BACKGROUND OF ACTION

On October 22, 1997 the class action entitled *Joan Ryan, et al. v. CARL Corporation, et al.*, U.S. District Court for the Northern District of California, Case No. C97-3873 (the "Action"), was filed on behalf of Representative Plaintiffs and those similarly situated. The Action charged the Defendants identified above with copyright infringement related to their operation of the Internet-based document delivery service known as UnCover. The Action alleges that Defendants delivered copyrighted articles to customers without the prior permission of authors who retained a copyright in the article and without paying those authors copyright fees. The Complaint sought injunctive relief and monetary damages. The Defendants denied all liability with respect to any and all of the facts or claims alleged, that they have engaged in any illegal or wrongful activity, and that any person has sustained any damage by reason of any of the acts complained of in the Action.

While Representative Plaintiffs and their counsel believe that the allegations charged in the Action have merit and the Defendants deny all liability with respect to the same, Representative Plaintiffs and Defendants have also examined the benefits to be obtained under the Settlement Agreement and Release and have considered the costs, risks and delays associated with continued litigation of this complex matter. The proposed settlement was reached after prolonged arms-length negotiations. Both Plaintiffs and Defendants believe that the proposed settlement is fair, reasonable, adequate and in the best interests of the Settlement Class.

II. DESCRIPTION OF THE SETTLEMENT

On July 12, 2000, the Court provisionally certified a settlement class defined as follows:

All authors who during the period beginning October 22, 1994 and concluding on July 12, 2000, owned, or jointly owned, the copyright in at least one work that was created or first published, or both, on or after January 1, 1978, and which work was reproduced or distributed, or both, by the CARL Corporation, the UnCover Company, UnCover, Inc., Knight-Ridder Information, Inc., The Dialog Corporation, or 966 Corporation on or after October 22, 1994 and on or before July 12, 2000.

The Court preliminarily approved the Settlement Agreement and Release described below and ordered that notice of the terms of the Settlement Agreement and Release and the date scheduled for a hearing to consider final approval of the Settlement Agreement and Release should be given to the Settlement Class.

A. Consent Decree

Pursuant to the Settlement Agreement and Release, UnCover has consented to the entry of a Consent Decree that provides that UnCover shall not furnish copies of copyrighted works whose copyrights are owned by authors, without first having a) express written prior permission from the owner(s) of a copyright in the individual work to be furnished; or b) express written prior permission from publishers who have represented and warranted to UnCover that they have the power and authority to license UnCover to reproduce and distribute individual works; or c) an arrangement, as more specifically defined in the Settlement Agreement and Release, with the National Writers' Union or other authors' rights clearinghouse organizations; or d) a written agreement with the Copyright Clearance Center ("CCC") that contains a warranty and representation from the CCC that the CCC has express written permission from publishers to authorize third parties to commercially reproduce and distribute individual works.

UnCover will block the delivery of any copyrighted work for which the author requests blocking, subject to identification and confirmation of ownership in the individual articles.

Subject to certification that no prior transfers occurred, UnCover will offer to enter into a license agreement with that author. The license agreement will designate the amount of semi-annual copyright payments to be paid to the author.

B. Destruction of Article Images

The settlement also requires UnCover to destroy its electronic storage disks containing images of over 800,000 articles.

C. Monetary Settlement

Pursuant to the Settlement Agreement and Release, $6,500,000.00 will be paid by or on behalf of Knight-Ridder, Inc. and certain of its former or current subsidiaries and The Dialog Corporation will pay, on behalf of all Defendants, $750,000.00 into the UnCover Settlement Trust Account to be distributed for the following purposes and as ordered by the Court:

1. Monetary Compensation to Settlement Class Members

Any Settlement Class Member who properly and timely submits a valid claim shall be entitled to receive monetary compensation from the Settlement Class Action Compensation Fund. The amount of the "Settlement Class Action Compensation Fund" will equal the funds contributed by Defendants and by or on behalf of Knight-Ridder, Inc. less payments made to the Representative Plaintiffs, costs of notice and claims administration, and attorney's fees and costs.

CLAIMS MAY BE SUBMITTED ELECTRONICALLY UTILIZING THE UNCOVER CLASS ACTION SETTLEMENT WEBSITE (www.uncoversettlement.com) OR BY CALLING THE TOLL FREE NUMBER (800) 348-5832 AND REQUESTING A CLAIM FORM TO BE MAILED DIRECTLY TO YOU.

To be valid, your claim must contain (1) your name, (2) the title of the article you authored which was delivered by UnCover or the identity of the publisher of the article delivered by UnCover (which information can be obtained using the UnCover Class Action website **www.uncoversettlement.com**), (3) your mailing address, (4) your social security number, and (5) a certification under oath that you are in fact the author of the subject article and that you retained the copyright in the article. The following additional information will also be requested: (1) an e-mail address, (2) the existence and identity of any co-authors who have retained copyrights in the article or other work and, (3) if you registered your Literary Work with the United States Copyright Office, the registration number and the date on which the Literary Work was registered. A valid registration number must be included in your claim in order to be compensated as a Registered Author as described below. A social security number must be included in your claim for tax purposes.

The amount of monetary compensation which a Settlement Class Member will receive is determined by, among other things, 1) whether or not the work delivered by UnCover was registered prior to or within 3 months of the first date of publication or was registered prior to its first delivery by UnCover and 2) the number of valid claims received. Compensation will be calculated as follows:

1) Pre-Registered Authors will receive, for each article title delivered by UnCover, **THE LESSER OF** either:

a) $30,000 **OR**

b) their pro rata share of 3/4 of the Settlement Class Action Compensation Fund.

2) All authors who submit valid claims, including Pre-Registered Authors, will receive a pro rata share of the "All Authors Pool" for each delivery made by UnCover. The All Authors Pool will be equal to the Settlement Class Action Compensation Fund less the Pre-Registered Authors Pool.

2. Other Payments From The Settlement Fund

Subject to approval of the Court, Representative Plaintiffs shall each receive $5,000 distributed from the settlement proceeds to fairly and adequately compensate them for their time, effort and expense in prosecuting this matter on behalf of the Settlement Class. Additionally, all cost of notice to the class and settlement administration fees and costs shall, upon approval and order of the Court, be paid from the Settlement Fund. Finally, the attorney's fees and the costs incurred by the Representative Plaintiffs and the Settlement Class Members during prosecution of this litigation shall, upon approval and order of the Court, be paid from the Settlement Fund.

D. Release of Claims

If the Court gives final approval to this settlement and after a hearing at which Settlement Class Members may participate and make known any objections that they may have, in consideration for the monetary payment made by Defendants and by or on behalf of Knight-Ridder, Inc. and the terms of the Consent Decree described above, the Representative Plaintiffs and each Settlement Class Member shall be deemed to have, and by operation of the Final Judgment and Order of Dismissal shall have, fully, finally, and forever released, relinquished and discharged the following claims:

> any and all claims, rights, damages, losses, demands, obligations, actions, causes of action, suits, cross-claims, matters, issues, liabilities, agreements, costs or expenses, of any nature whatsoever, ascertained or un-ascertained, suspected or unsuspected, existing or claimed to exist, including "Unknown Claims" (as defined in ¶ II (I) of the Settlement Agreement and Release), of any and all Representative Plaintiffs and/or Settlement Class Members that either were or could have been asserted in the Complaint against any of the Released Parties (as defined in ¶ II (H) of the Settlement Agreement and Release) arising out of, related in any manner, or connected in any way, directly or indirectly, to UnCover or CARL (defined in ¶ II (F) of the Settlement Agreement and Release) including without limitation any acts, omissions, facts, transactions, actions, conduct, and/or their business, operations, ownership, or policies, for all periods up to and including the Effective Date (defined in ¶ II (J) of the Settlement Agreement and Release).

III. CLASS MEMBERS RIGHTS TO APPEAR AND BE HEARD

Settlement Class Members will be entitled to participate in the settlement and your interests will be represented by the following Settlement Class Counsel:

John D. Shuff, Esq.
Janette L. Ferguson, Esq.
Robins, Kaplan, Miller & Ciresi L.L.P.
600 Anton Boulevard, Suite 1600
Costa Mesa, California 92626

Daniel A. Reidy, Esq.
Law Office of Daniel A. Reidy
1001 Bridgeway, Suite 3-B
Sausalito, California 94965

At the Settlement Hearing, any member of the Settlement Class may appear in person or by counsel and be heard in opposition to 1) certification of a Settlement Class, 2) the fairness, reasonableness and adequacy of the Settlement Agreement and Release or any provision therein, including the payment of attorney's fees and costs to Settlement Class Counsel, or 3) entry of a final order approving the Settlement Agreement and Release and dismissing the Action. In order to appear in person, or by counsel, or otherwise object to the proposed class action settlement, you must, on or before September 15, 2000, 1) file with the Court a notice of intention to appear; 2) submit an affidavit that you are a member of the Settlement Class; 3) state in writing the basis for the objections; and 4) provide copies of the foregoing and all other papers in support of such objections to either:

John D. Shuff, Esq.
Janette L. Ferguson, Esq.
Robins, Kaplan, Miller & Ciresi L.L.P.
600 Anton Boulevard, Suite 1600
Costa Mesa, California 92626

Michael Traynor, Esq.
Robert Eisenbach, III, Esq.
Cooley Godward L.L.P.
One Maritime Plaza, 20th Floor
San Francisco, California 94111

IN ORDER TO BE VALID, ALL OBJECTIONS AND PAPERS LISTED ABOVE, MUST BE RECEIVED BY COUNSEL IDENTIFIED ABOVE ON OR BEFORE SEPTEMBER 15, 2000.

IV. EXAMINATION OF PAPERS AND INQUIRIES

The above is a summary of the terms of the Settlement Agreement and Release. A more detailed statement of the matters involved in the Action, including the Complaint, other pleadings, a full text version of the Settlement Agreement and Release and all related papers, a copy of Orders entered in the Action, etc. may be inspected at the Office of the Clerk, U.S. District Court for the Northern District of California, Oakland, 1301 Clay Street, Oakland, California. Additionally, a full text version of the Settlement Agreement and Release and the Notice to the Class, and all related documents, may be accessed at the following website: **www.uncoversettlement.com**. ALL QUESTIONS RELATING TO THE PROPOSED SETTLEMENT SHOULD BE DIRECTED TO CLASS COUNSEL IDENTIFIED ABOVE. PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE FOR INFORMATION.

By Order of the U.S. District Court for the Northern District of California.

Dated: July 12, 2000

U.S. District Court Judge, D. Lowell Jensen

BOOKS

The Myth of Media-Driven Malaise

BY MICHAEL SCHUDSON



"Correlation is not causation." That is as basic a watchword for social science as "watch the ball" is for athletics. And it is the guiding principle that informs this important rethinking of the influence of news on our political culture.

There's more meat here than even author Pippa Norris has herself digested; the book is half social science analysis and half a statistical almanac. But this is to quibble. *A Virtuous Circle* is praiseworthy both for its sumptuous comparative statistics on the news media across European and North American democracies, and for its unflappable sanity and even ruddy hopefulness about the state of the media (but not necessarily the state of the world) today.

For Norris, media critics have failed to make their case that contemporary news practices harm the body politic. The evidence of "media malaise," that media and political communication today reduce civic activism, diminish trust in government, and retard knowledge of and interest in public affairs, has little empirical support. In fact, people who attend to news know more about politics than those who don't. They are as trusting of political institutions as those less attentive to news.

This is not exactly three cheers for the press, but it directly counters the views of many others — including Norris's own distinguished colleague at Harvard's Shorenstein Center, Thomas Patterson (it makes you wonder what their faculty meetings are like).

In 1993, Patterson published a widely noted book, *Out of Order*, that claimed that the U.S. news media had grown more negative and more cynical in political coverage over the past two or three decades, that this had matched a growing popular distrust of politicians and government and a general disengagement from civic life, and that — although Patterson also knows that "correlation is not causation" — cynicism in the news "has contributed to" cynicism in the electorate. Other scholars, journalists, and media reformers have endorsed a "the news-media-make-us-less-civic" hypothesis. A European version of this argument focuses more on the increasingly media-oriented electoral campaigns than on the news as such. In the European variant, American-style political packaging, media consultants, and emphasis on image over substance have produced a European "crisis of civic communication."

A VIRTUOUS CIRCLE: POLITICAL COMMUNICATIONS IN POSTINDUSTRIAL SOCIETIES
BY PIPPA NORRIS
CAMBRIDGE UNIVERSITY PRESS. 352 PP.
PAPERBACK $21.95. HARDCOVER $59.95

Well, Norris asks, in her "I call 'em as I see 'em" tone, what do the data tell us? As a comparative political scientist, a British transplant to the United States and a student of British as well as U.S. media and politics, she also suspects the American situation might look different when compared to other nations. If there is "media malaise," is it an American disease or a world epidemic?

Here's what she finds. In Europe since 1970, the percentage of citizens of democracies who read a newspaper every day has grown by 67 percent. The percentage of people who watch television news daily has increased almost 50 percent. Even after taking education into account, European citizens who attend to news know more about politics as well as everyday social and health matters than those who do not. People attentive to news are no more, but no less, trusting and confident in government than the inattentive. People attentive to news are more likely to participate in politics through voting and other forms of participation. Looking specifically at news coverage of the European Union, Norris found a "Euroskeptic tone" in the newspapers and an even more negative tone in European TV news and she found this associated with public skepticism toward the euro and other features of the EU. But she resists drawing the conclusion that this is a case of the press influencing the public. Instead, she argues, the press takes its cues from party elites, interest groups, and the

DAVID SUTER

political culture at large; journalists are "players in a broader political culture" rather than outsiders independent of it.

In America, the media domain is very different, with lack of newspaper competition in most markets, the absence of the kind of strong tabloid readership that many European countries maintain, falling rather than rising newspaper sales, and the absence of a strong public-service broadcast sector. Does a "media malaise" hypothesis work better here? No. As in Europe, people who attend to the news are significantly more likely to participate in political campaigns by voting, contributing money, or discussing politics. It may be that watching hour after hour of entertainment television is a factor in disengaging Americans from political and civic life, but watching TV *news* is not. Norris does not find any relationship between increasing negativism in the news since the 1980s and popular trust in

MEDIA CRITICS HAVE FAILED TO MAKE THEIR CASE THAT CONTEMPORARY NEWS PRACTICES HARM THE BODY POLITIC

governing institutions, which has risen, fallen, and risen again in this same period. She finds a decline in political interest, political trust, and voter turnout in the 1960s-early 1970s, but not a steady decline from the 1960s to the present. Not only is correlation not causation — we don't even have a good correlation.

The evidence for media-driven malaise just ain't there. The best evidence, in fact, goes in the other direction: that active, politically engaged people attend to the news more than others and that attending to the news reinforces them in their political involvement. This is the "virtuous" rather than "vicious" circle of her title. And in most respects she is utterly convincing.

This is a significant book. It is, to be sure, an academic's book. Although Norris writes clear and straightforward prose, she also gets caught up in the intricacies of academic argument and a range of data so vast that the general reader will have a tough time of it. But her conclusion is challenging: "A citizenry that is better informed and more highly educated, with higher cognitive skills and more sources of information, may well become increasingly critical of governing institutions, with declining affective loyalties towards traditional representative bodies such as parties and parliaments. But increasing criticism from citizens does not necessarily reduce civic engagement; indeed, it can have the contrary effect." In other words, the tenor of the times is more critical than it used to be, with uncertain consequences. Norris wants us to consider the possibility that critical citizens, committed to democratic values but unhappy with the performance of governmental institutions, are not cynical but wary. And vigilance can be a democratic virtue.

This is not to suggest, Norris cautions, that all's well in contemporary democracies. But blaming the news media for what ails us in political corruption, undernourished social services, and violent conflicts in some countries is to find a scapegoat, not a powerful source of our ills. ■

Michael Schudson is professor of communications and sociology at the University of California. His latest book is A Good Citizen: A History of American Civic Life.

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Review of materials will begin in mid-September. To ensure full consideration, applications (including cover letter and vitae/resume) and nominations should be received by October 16, 2000.

Address correspondence to
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Devilish News



BY MARK I. PINSKY

The sixteen-million member Southern Baptist Convention has been at war with modern American culture for the past four years. In 1996, the nation's largest Protestant denomination launched an economic boycott of the Walt Disney Company, charging the entertainment giant with abandoning its family-values legacy in movies, books, and television programs, and attacking it for offering health benefits to partners of gay employees. The vote set off a week of frenzied attention from journalists, columnists, editorial writers, cartoonists, cable television pundits, radio talk show hosts, and late-night comedians. Since then, the convention's annual June meeting has reliably yielded controversial — and to many, calculatedly outrageous — pronouncements and resolutions about the role of women, the legitimacy of other faiths, and homosexuality. Women should be submissive wives and not be pastors. Jews, Muslims, and Hindus should be targeted for conversion during their holy days, and Roman Catholicism is based on false doctrine. Homosexuality is evil, and gays are on the offensive with an aggressive agenda.

THE GOSPEL ACCORDING TO THE NEW YORK TIMES: HOW THE WORLD'S MOST POWERFUL NEWS ORGANIZATION SHAPES YOUR MIND AND VALUES THROUGH 'CULTURE CREEP'
BY WILLIAM PROCTOR
BROADMAN & HOLMAN, NASHVILLE
308 PAGES $14.99

To some degree, the media are getting used to this mutually manipulative exercise, so used to it that *The New York Times* has not sent a reporter to the Southern Baptist Convention's last two meetings. In that context, the latest salvo in the culture war comes from the Southern Baptists' publishing arm, Broadman & Holman, a powerhouse in the world of Christian books; the target in the cross hairs is *The New York Times*, flagship of what evangelical Christians call "the secular media."

William Proctor, author of *The Gospel According to The New York Times*, is no backwoods, Bible-thumping yokel. He is a graduate of Harvard College, Harvard Divinity School, and Harvard Law School, and a former reporter for the New York *Daily News*. His fervor, however, is as intense as that of any preacher in the pulpit. What he rails about in this book, to varying effect, is what he calls "culture creep." This he defines as "a subtle but highly potent process of journalistic proselytizing" — through news stories, editorials, and op-ed pieces —that has "the potential to shape individual minds, alter personal beliefs, and produce broad-based social and political changes." The *Times*'s gospel "is rooted in a kind of secular theology that purports to convey infallible social, moral, and political truth — a truth that the paper fervently pro-

motes with all the zeal of the fieriest proselytizer." By virtue of its "quasi-religious status," the *Times* "permeates our entire culture" as the "single journalistic hand that sets the public agenda for all others."

To demonstrate the paper's power to influence the culture in ways that ultimately ruin lives, Proctor provides six "case study" capsules. These unnamed culture-war casualties include: a young woman who had an affair with a married man, lived with him after his divorce and considered having a child by herself after being abandoned; a man who once considered joining the Marine Corps, but eventually found himself voting for candidates who advocated reduced American power abroad; a woman whose intense environmentalism led her to animism, meditation, Hinduism, and vegetarianism; a man who "cast aside any heterosexual feelings he harbored," embraced gay sexuality and died of AIDS; a woman who had an abortion in the second trimester of her pregnancy; and a man who deserted a Bible-believing church when he accepted evolution.

THE *TIMES* PROMOTES ITS 'SECULAR THEOLOGY' WITH 'ALL THE ZEAL OF THE FIERIEST PROSELYTIZER'

There is little doubt whom Proctor is speaking for. "Perhaps the greatest threat to the social and political agenda of *The New York Times* is conservative religion — especially evangelical Christianity," he writes. "The paper doesn't hesitate to allow its pages to be used for subtle and not-so-subtle potshots at . . . conservative Christian groups, such as Southern Baptists." A particular sore point among evangelicals, Proctor notes, is that the *Times* and other secular media that follow its lead use the term "religious right" to "dismiss anyone with a Christian faith who happens to be slightly right of political center." And that the inflammatory term "fundamentalist" is used as a way to pigeonhole more orthodox Jews, Muslims, and Christians as "anti-intellectual, anti-social, bigoted, mean-spirited or even violent."

To reinforce his thesis, Proctor offers story counts from the *Times*'s own data base. For example, in a search covering a one-year period from 1998-99, he calculates 1,522 stories on welfare; 1,481 stories on gays; and 980 stories on abortion. In another 365-day period covering 1998-99, he found 119 articles on the subject of intolerance, and a search for the word "bigotry" turned up 122 articles. This weight of coverage, he says, is an accurate barometer of the paper's corporate belief system; the more readers are exposed to an issue, the more they may be influenced on it. In a third year-long search, he makes a more interesting argument about what he calls the use of "loaded language." Thus the term "anti-abortion" appears in 169 articles, while "pro-abortion" appears only fourteen times. The same is true of the term "religious right," which appears frequently, and of the term "religious left," which is virtually non-existent. Unfortunately, such legitimate complaints are obscured by Proctor's rhetoric and insistence on attributing Machiavellian motives to the *Times*.

News stories "are really opinion pieces in disguise," he says, although most of his cited examples for this charge involve headlines and the way stories are framed. He criticizes a 1998 *Times* story about an NBA playoff

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Executive Assistant Needed. CJR's publisher and editorial director seeks a part-time (15 hours per week) assistant to help organize his office and keep track of appointments and schedules. Duties include basic administrative work such as filing, scheduling, correspondence, and basic research. CJR's small staff is located at the Journalism School at Columbia University. Hours are flexible, but would ideally be 9AM to 12PM Monday through Friday. Interested applicants should contact CJR's associate publisher, Dennis Giza, by phone (212) 854-2718, or e-mail (dfg2@columbia.edu).

Editorial Intern: CJR is looking for qualified students or recent graduates to work as part-time (20 hours a week) interns. Duties range from handling phones and photocopying to research, reporting, writing, and fact-checking. CJR's offices are located at the Journalism School at Columbia University. Interested applicants should send a cover letter, résumé, writing samples (clips preferred), and the names and phone numbers of two appropriate references to: Gloria Cooper, Managing Editor, Columbia Journalism Review, 704 Journalism Building, Columbia University, New York NY 10027.

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MISCELLANEOUS

Do you have an apartment or room to rent or sublet? Columbia University's Off-Campus Housing Assistance Office (OCHA) will list your room or apartment free of charge on our new on-line database which is accessible to Columbia affiliates. Let OCHA help you find a tenant from within the Columbia community. Call OCHA at 212-854-2773

game because it did not include Knicks guard Charlie Ward's televised comments crediting his religious faith for making a critical three-pointer. He condemns the *Times* for allowing NBC and *The Wall Street Journal* to be first with the story of Juanita Broaddrick's rape allegations against President Clinton. A 1998 story about Mayor Rudolph Giuliani's support for a domestic partners bill in New York, with the headline, GAY GROUPS REJOICE IN MAYOR'S MOVE AS CRITICS DEPLORE IT, was "heavily weighted toward the gay position" and "revealed an almost total absence of 'the deploring' that was promised in the headline." And he attacks a story written by Gustav Niebuhr at the 1998 Southern Baptist Convention about the denomination's declaration that wives should "submit" to their husbands. Barely quoting the text (or naming the author, whom he praises elsewhere in the book), Proctor charges that the story "presented the issue as primarily an attack on the rights and dignity of women — and a misguided attempt to return to some outmoded principles of family relationships," rather than as a simple defense of Scripture. He takes the *Times* (and public broadcasting) to task for not including God in their coverage, because he says they reject "any possibility that events can be explained in supernatural terms."

For all his criticism, Proctor is of two distinct minds about the *Times*. He considers it indispensable reading and the best newspaper in the country, the primary reason for its influence over other media. "No morning is complete without my '*Times* fix,'" he acknowledges. "I will always read the *Times*, regardless of its other deficiencies." Yet he spends most of the book trying to prove that it is a malign influence on society, attributing to it incredible powers over its readers and other media it affects. Curiously, Proctor mentions but does not explore in depth a less sinister (and more logical) explanation for the coverage he deplores — namely that it may be the result of the shared cultural and political assumptions of reporters, editors, and editorial page writers. He is obsessively apoplectic in discussing the columnist Frank Rich, who has taken dead aim at Pat Robertson, James Dobson's Focus on the Family, and the Southern Baptist Convention. Sometimes, Proctor's musings straddle the line between silliness and paranoia. As a result of the *Times*'s advocacy of globalism and, in particular, international peace-keeping missions, "it's conceivable that at some point in the not-too-distant future, a Chinese Communist general might be poised to lead a force into the American South or Midwest. His mission? To keep the peace after violent riots have broken out over some rights issue." This is the same Proctor who elsewhere warns like-minded critics against making charges of a media conspiracy, because "such an accusation smacks of the tactics of wacky conspiracy advocates who are easy to dismiss."

At the conclusion of the book, Proctor suggests to conservative readers eight "defenses" against the *Times*. Some are good for readers of any ideological coloration, like reading critically and analytically. Others are admittedly fanciful, like launching a corporate takeover, which is virtually impossible given the Sulzberger family's control of the stock. Or starting a rival news organization, which is equally unlikely, considering the *Times*'s prestige and century of credibility. There are alternatives, he notes, like the *Washington Times* and the Christian Trinity Broadcasting Network, but none with sufficient stature to mount a serious challenge.

Proctor's thesis that *The New York Times* is an evil empire is likely to prove persuasive and perfectly reasonable to the constituency for which it was written: conservatives and evangelical Christians who believe America has gone haywire and are looking for something to blame. At the same time, this book is so extreme that it is likely to seem otherworldly to most *Times* readers. Such is the extent of the cultural disconnect in the U.S. today, between liberals in the major metropolitan centers and college towns on one hand, and conservatives in the rural and suburban areas of the American heartland on the other. As a *Times* reader living in a Sunbelt suburb, I sometimes wonder if my Southern Baptist friends and I are talking about the same country. ■

Mark I. Pinsky, a former staff writer for the Los Angeles Times, *covers religion for the* Orlando Sentinel. *He has reported on the Southern Baptist Convention for the past five years. In the 1970s, he was a regular stringer for the* New York Times *national desk.*

BOOK REPORTS

BY JAMES BOYLAN

THE FORTUNE TELLERS: INSIDE WALL STREET'S GAME OF MONEY, MEDIA, AND MANIPULATION
By Howard Kurtz
The Free Press. 327 pp. $26

The prolific Howard Kurtz, media reporter for *The Washington Post*, has found time, while working at his day job, to spend eighteen months at the elbows of the new breed of cable and Internet Wall Street journalists and, equally important, the "analysts" who pop up on screen and push their products, often without disclosing their own financial interests. In Kurtz's view, journalists, analysts, c.e.o.s — all the talking heads — tend to become Wall Street touts, playing a primarily promotional role — to keep Americans, on line and off, feeding the ever-expanding market. He focuses in particular on the rambunctious Jim Cramer, who plays all of these roles and is the very embodiment of conflicts of interest. Kurtz chronicles the competition, feuds, and avarice of this suffocating little community in such tight focus that the story becomes, as Kurtz remarks of the coverage itself, "numbingly repetitious." At times he seems so involved with these often unpleasant personalities as to have forgotten the outside world. Yet in the end he pulls it all together, warning that Americans in general and investors in particular are being ill-served by frantic hypesters, roaring ahead, as he puts it, "like drivers in a demolition derby." He is sternly critical of the media outlets that act like carnival barkers, but has no real prescription for reform, and merely urges investors to use caution. Caveat emptor.

STORIES THAT CHANGED AMERICA: MUCKRAKERS OF THE TWENTIETH CENTURY
By Carl Jensen, Ph.D.
Seven Stories Press. 272 pp. $26.95

Carl Jensen of Sonoma State University, known for founding Project Censored (which looks into important uncovered stories), here assembles his old heroes. It is always a treat to see them — Ida M. Tarbell, Lincoln Steffens, Upton Sinclair, and so on up through Woodward and Bernstein — all of whose works are excerpted here. Each item is accompanied by a biographical introduction that reads a little like a tearsheet from a reference book. But these little biographies also yield a curious aspect of this collection: The youngest muckraker represented (Carl Bernstein) was born fifty-six years ago, and the most recent work represented dates from the 1970s. This suggests that nobody under fifty has done worthy muckraking, that muckraking died in the 1970s (as Jensen hints in his introduction) or that Jensen's assemblage is like a repertory company, trotted out once more — the same cast, the same old roles.

MEDIA ETHICS AND ACCOUNTABILITY SYSTEMS
By Claude-Jean Bertrand
Transaction Publishers. 164 pp. $29.95

Bertrand, who is associated with Institut Français de Presse in Paris, has spent his career studying media ethics on both sides of the Atlantic. Here he sums up his findings and offers recommendations for helping news media meet higher standards. However, the book is so tersely written as to constitute more an outline of issues than an exposition. The most useful portions are the final chapters, which summarize what he calls "media accountability systems" (oddly abbreviated "M*A*S"), where he demonstrates the common goals of such apparently diverse phenomena as higher education, journalism reviews, press councils, and ombudsmen, and the obstacles to all forms of accountability. This is a chewy but ultimately rewarding presentation.

CREATING THE MODERN MAN: AMERICAN MAGAZINES AND CONSUMER CULTURE 1900-1950
By Tom Pendergast
University of Missouri Press.
289 pp. $34.95 paper

This prolix book — it smells like a doctoral dissertation, but is not identified as one — is, for journalists, more valuable for its history of magazines than for its ostensible topic, how character-based Victorian manhood became consumption-based modern manhood. Pendergast chronicles the evolution of magazines — editors and advertisers working in tandem — as showcases for a manhood built less on what men achieve than what they own, what they wear, how they conduct their sex lives. At the same time, he reilluminates the careers of a surprising variety of magazines — not only *Munsey's* and *McClure's* and the *Saturday Evening Post*, but such male-oriented publications as *Athletic World*, *True*, and *Argosy*. In separate chapters, he traces the struggles by black-oriented magazines to gain larger audiences, largely unsuccessful until the founding of John H. Johnson's *Ebony*, just after World War II, a periodical that successfully adopted the consumerist orientation. Pendergast, an optimist, does not think that the change in character of American magazines has been for the worse, but has opened the way toward more diverse, more imaginative lives.

LAPSING INTO A COMMA: A CURMUDGEON'S GUIDE TO THE MANY THINGS THAT CAN GO WRONG IN PRINT — AND HOW TO AVOID THEM
By Bill Walsh
NTC/Contemporary Publishing Group.
246 pp. $14.95 paper

Contrary to what self-designated language curmudgeons such as Bill Walsh may think, a curmudgeon is not by heritage a contrary, demanding, but ultimately worthy and lovable fellow. Dictionaries still define a curmudgeon as grasping, avaricious, miserly, and loathsome. Bill Walsh, copy desk chief on *The Washington Post*'s business desk, is none of these, and he's not old enough (thirty-eight) to be a curmudgeon, either. He has gathered up the advice he has offered on his Web site, *www.theslot.com*, for the last five years and offers it in this compilation. Almost all of it makes good sense; he combines adherence to traditional grammatical standards with a willingness to bend when necessary. To take one example, he favors using "media" as both a plural and a singular noun, depending on circumstances. This takes temerity. As he remarks, "It takes guts to publish *the media is* and risk incurring the wrath of educated but misguided readers."

James Boylan is founding editor of CJR *and professor emeritus of journalism and history at the University of Massachusetts-Amherst.*

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The San Jose Mercury News, represented by Jeanne Mariani-Belding, race & demographics editor

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Paul Gallagher, producer, CBS News "60 Minutes"

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The Lower case

Blame flies in hearings over gas prices

The Santa Fe New Mexican 6/20/00

Estrin to Leave Cisco Systems to Launch Her Fourth Start-Up With Husband

The Wall Street Journal 4/3/00

Aging conference speakers address the old problems

The Charleston Gazette 6/8/00

Want to spell like a champ? Read Wenster's dictionary

Jackson (Mich.) Citizen Patriot 6/10/00

NEW YORK POST

LATE CITY FINLA

New York Post 6/5/00

Humane genome project essentially complete

Marietta (Ohio) A.M. 6/27/00

Christian couples flock to Internet to find partners

The Desert Sun (Palm Springs, Calif.) 7/2/00

Gas levels high in Beantown

The Gazette (Rockville, Md.) 6/7/00

Court rules law on nude reproduction is too broad

Wausau (Wis.) Daily Herald 6/29/00

In January, Morgan fell at the capitol and shattered her ankle into twenty-seven pieces. She picked up a staff infection and wound up covering part of the legislative session from a hospital bed, where she watched the floor sessions on television.

Columbia Journalism Review July/August 2000

Muslim center has Islamic ties

The Honolulu Advertiser 6/17/00

Bottle can drive

Morning Sun (Mt. Pleasant, Mich.) 4/5/00

Wearing just socks and with Mrs Howard in stockinged feet according to custom, Mr Howard presented the large wreath of mainly yellow flowers and paused for a minute's silent tribute.

Sydney Morning Herald 7/12/00

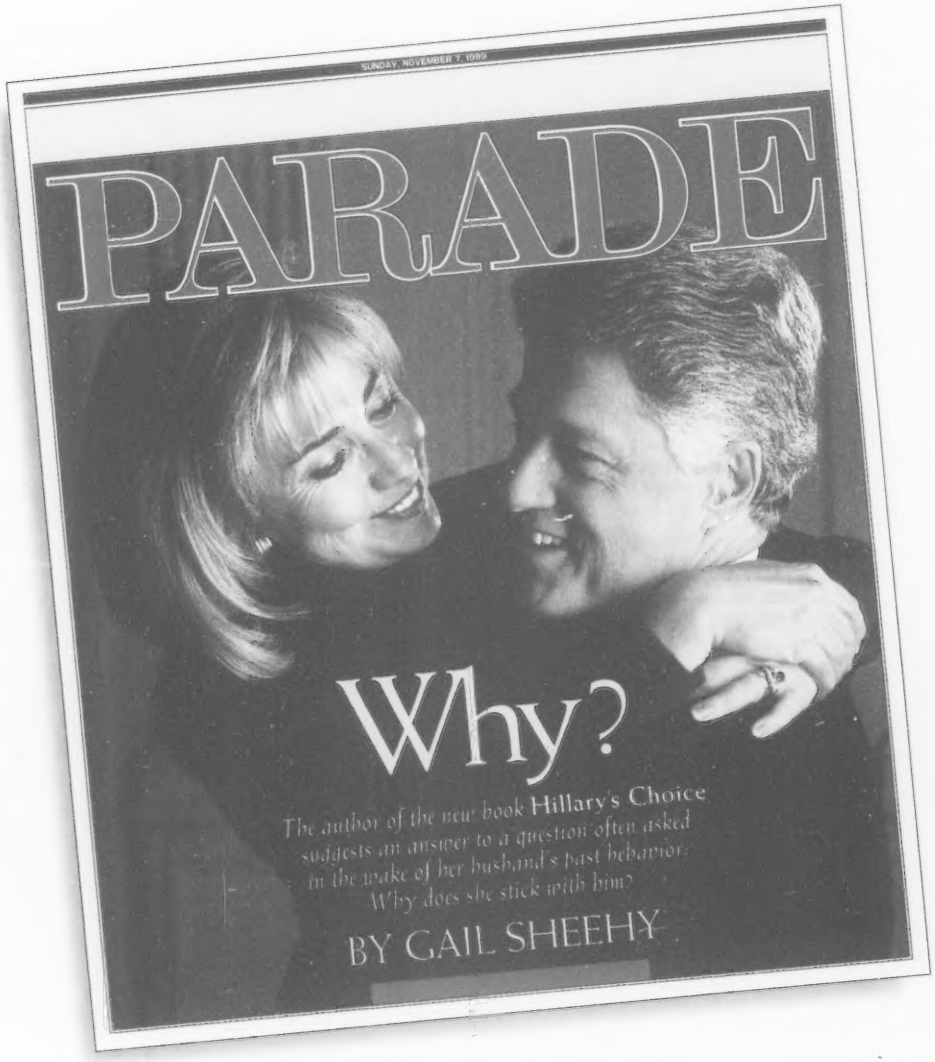
Guests tour Stilwell Hall, fate unknown

Globe: Defense Language Institute Foreign Language Center (Monterey, Calif.) Sept./Oct. 1999

State Governments Are Sold on EBay for Surplus Auctions

San Francisco Chronicle 4/24/00

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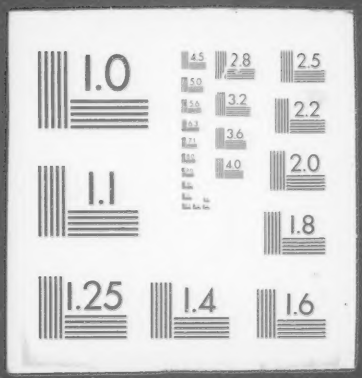


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